ATLANTIC BLUEFIN TUNA STOCKS

HEARING

BEFORE THE

NATIONAL OCEAN POLICY STUDY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1564

THE AMERICAN TUNA ACT

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ATLANTIC BLUEFIN TUNA STOCKS

TUESDAY, DECEMBER 8, 1981

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
NATIONAL OCEAN POLICY STUDY,
Washington, D.C.

The study met at 9:45 a.m., in room 235, Russell Senate Office Building, Hon. Lowell P. Weicker, Jr. presiding.

OPENING STATEMENT BY SENATOR WEICKER

Senator WEICKER. Today we are going to hear testimony on extended jurisdiction for tuna within the U.S. 200-mile fisheries conservation zone.

When the Fisheries Conservation and Management Act (FCMA) was passed in 1976, all species of tuna were excluded from U.S. jurisdiction within our 200-mile zone. This exclusion allows our distant water tuna fleet to disregard judicial claims by other nations on tuna within their own waters. Present U.S. policy therefore allows our tuna boats to enter foreign waters against the will of the claimant nation. A Federal fund, jointly shared with the industry, is then used to pay the fines of the vessels if seized by a foreign government.

In the meantime, the western Atlantic bluefin tuna stock is on the brink of disaster because of our policies. The bluefin tuna has been heavily fished on the east coast of the United States particularly by the Japanese. All scientific evidence indicates that the western bluefin stock is seriously depleted.

Last month the scientific committee of the International Convention for the Conservation of Atlantic Tuna (ICCAT) recommended that a moratorium be imposed on the harvesting of bluefin in the western Atlantic.

Although I am grateful that the plight of the bluefin tuna has finally been recognized internationally, I am concerned that it took 20 years of a recognized downward trend in the bluefin stocks before any action was taken and then on an emergency basis; we were so to speak a day late and a dollar short.

Action by ICCAT has convinced me more than ever that we must move expeditiously to include tuna under our jurisdiction. Such action would not preclude international cooperation, of course, and it would solve what I see as an undesirable U.S. policy toward international tuna fishing. It is my opinion that the U.S. taxpayer should not be subsidizing a relatively small but rich segment of our fishing industry and there is no strong evidence that including tuna under our jurisdiction will hurt our negotiations with other nations for fishing rights.

Eighty-seven nations now claim jurisdiction over tuna which puts the United States cleanly in the minority along with Japan and Spain. I am concerned that this actually negates our negotiation capabilities rather than enhancing them.

I would like to add here that while we agonize over fishing rights in Central and South American waters, our own trust territories, which by the way claim tuna within their own 200-mile zones, have untouched tuna resources that far exceed the annual catch by U.S. fishermen. Tuna is the only resource in some of these islands and its development would not only help the economy of their governments but could shift our reliance away from unstable resources in foreign waters.

I hope that today's hearing will air these and other problems confronting the tuna stocks and industry and help guide us to a long-term and expedient solution.

[The bill follows:]

[S. 1564, 97th Congress, 1st session]

A BILL Entitled the "American Tuna Act"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.) is amended as follows:

(1) by striking out the words "except highly migratory species," from subparagraph (A) of paragraph (1) of subsection (b) of section 2 (16 U.S.C. 1801);

(2) by—

(A) striking out the words "birds, and highly migratory species" and substituting "birds"; and

(B) inserting "and" between the words "mammals" and "birds" in paragraph (6) of section 3 (16 U.S.C. 1802); and

(3) by striking out section 103 (16 U.S.C. 1813).

Senator **WEICKER**. Ladies and gentlemen, because of the situation on the floor of the Senate, which is that I am managing a small business bill, we are going to have to move these hearings along. It wasn't my intention when I called these hearings, but nothing logical works around here, anyway.

We are just going to tailor the cloth to fit the situation, so I would appreciate it if all those who are going to testify would synopsize their statements, leaving time for whatever questions might arise. I just want to make certain that all of you that have had the decency and courtesy to come here—some of you from long distances—will have a U.S. Senator to listen to your testimony.

I would appreciate it if all would take that in consideration, because I have to be on the floor of the Senate in about an hour's time, which makes things a little on the tight side. It is not by my choosing.

The first panel will consist of Mr. Theodore Kronmiller, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs; and Mr. William G. Gordon of the National Marine Fisheries Service.

Mr. Kronmiller and Mr. Gordon?

STATEMENTS OF THEODORE G. KRONMILLER, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS; AND WILLIAM G. GORDON, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. **Kronmiller**. Mr. Chairman, I would like to have along with me Mr. Hollman, my fisheries officer.

Senator **Weicker**. Very well. Proceed in whichever way you prefer.

Mr. **Gordon**. Mr. Chairman, my name is William G. Gordon, the Assistant Administrator for Fisheries of the National Marine Fisheries Service. Mr. Chairman and members, I am happy to be before you today concerning an action concerning bluefin tuna taken at the meeting of the International Commission for the Conservation of Atlantic Tunas held November 11 through 17 at Tenerife, Canary Islands. The actions concerning bluefin tuna taken at the meeting at ICCAT are quite significant to U.S. interests.

As you probably are aware by now, the Commission approved a new conservation recommendation calling on the contracting parties to take measures to prohibit the capture of bluefin tuna in the western Atlantic for a period of 2 years. However, under the provisions of the recommendation, fishing activities necessary to provide for the scientific monitoring of the stock will be permitted. The ICCAT member nations which have participated in the fishery are to consult prior to February 15, 1982, to determine the conditions under which fishing by their nationals will be permitted.

Since the first regulations concerning Atlantic bluefin tuna were approved by ICCAT in 1975, the United States has been urging the Commission to consider more restrictive measures in the light of the apparent continuing decline in stock abundance. Confronted at this year's meeting with alarming data and strong management recommendations from the Standing Committee on Research and Statistics, the Commission finally recognized the precarious state of the stocks in the western Atlantic and took positive action to end the downward trend.

The negotiations necessary to determine the allocation of the 800 metric tons of bluefin tuna among those countries actually engaged in bluefin fishing in the western Atlantic, that is, the United States, Canada, and Japan, are expected to occur before the end of January in order to reach decisions before the February 15, 1982 deadline. Brazil and Cuba, ICCAT members whose fisheries for bluefin tuna in the western Atlantic are insignificant or nonexistent, may also be included in the consultations.

During the negotiations in Tenerife, there was frequent discussion with the Japanese delegations which voiced opposition to the Commission's action. Japan pressed for additional consultations and review of the scientific data prior to taking any action. Japan also emphasized the economic damage that would befall the Japanese tuna industry as a result of the proposed measures.

Mr. Chairman, we also are acutely aware of the serious impact that the Commission's action is also going to have on U.S. fishermen; however, in view of the strength of the scientific committee's recommendations, and the fact that such recommendations have not been made before, the U.S. delegation to ICCAT agreed unanimously that action could not be delayed. Without the Commission's actions, serious efforts to halt the decline in the stock of bluefin tuna in the western Atlantic in 1982 would not have been possible.

Under the ICCAT Convention, it normally takes at least 6 months to bring new conservation recommendations into effect. However, the ICCAT members have agreed that the bluefin tuna management recommendations may take effect earlier. The United States intends to work actively to accomplish this.

Mr. Chairman, this summarizes my statement. I will be pleased to respond to questions.

[The statement follows:]

STATEMENT OF WILLIAM G. GORDON, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Committee, I am happy to appear before your Subcommittee today to report on the action concerning bluefin tuna taken at the meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) held November 11-17 at Tenerife, Canary Islands. Accompanying me is Mr. Carmen J. Blondin, Director of the Office of International Fisheries in NMFS, who served as U.S. Commissioner and head of the U.S. Delegation to ICCAT.

The action concerning bluefin tuna taken at the meeting of the ICCAT is quite significant to U.S. interests. As you probably are aware by now, the Commission approved a new conservation recommendation calling on the Contracting Parties to take measures to prohibit the capture of bluefin tuna in the western Atlantic for a period of 2 years. However, under the provisions of the recommendation, fishing activities necessary to provide for the scientific monitoring of the stock will be permitted. The ICCAT member nations which have participated in the fishery are to consult prior to February 15, 1982, to determine the conditions under which fishing by their nationals will be conducted.

Since the first regulations concerning Atlantic bluefin tuna were approved by ICCAT in 1975, the United States has been urging the Commission to consider more restrictive measures in light of the apparent continuing decline in stock abundance. Confronted at this year's meeting with alarming data and strong management recommendations from the Standing Committee on Research and Statistics (SCRS), the Commission finally recognized the precarious state of the stocks in the western Atlantic and took positive action to end the downward trend.

The SCRS Report noted that "the scientific evidence is not yet sufficient to determine with certainty if there are two separate stocks or one stock but present evidence is towards the hypothesis of separate eastern and western stocks." The SCRS analysis of the status of bluefin tuna, under the hypothesis of separate eastern and western stocks, indicated a significant difference in the abundance estimates of the two stocks. While stocks in the eastern Atlantic appear to be stabilizing or even slightly increasing, the western Atlantic stocks of juvenile and large fish are very low and have decreased steadily since 1960. The SCRS Report indicates that recruitment levels have dropped to 12 percent of the 1960 level. Stock-assessments indicate that recruitment will continue to be very low. The 1973 year-class has been greatly reduced by heavy exploitation and is not expected to contribute significantly to the western Atlantic spawning stock in 1983. The SCRS therefore concluded that "the total stock weight of adult fish will remain constant or perhaps slightly decrease if there is no catch in 1982." Since there is no indication that adult stock abundance will increase in the immediate future, the probability of a strong year-class in the near future seems very low. The SCRS therefore recommended that if the resource is to be managed as though there are separate stocks, catches of adult and juvenile fish in the western Atlantic be as near zero as feasible in 1982.

In order to provide for scientific monitoring of the stock, the Commission recommendation permits a catch of bluefin tuna in the western Atlantic not to exceed 800 metric tons (mt) annually. The U.S. estimate of the amount necessary to provide for such monitoring was somewhat lower—565 mt taken from appropriate size and age groups of bluefin tuna. In consultation with the other western Atlantic ICCAT nations fishing bluefin tuna in the western Atlantic, the 800 mt may be adjusted to ensure the stabilization or increase of the stock if warranted by scientific data.

The negotiations necessary to determine the allocation of the 800 mt of bluefin tuna among those countries actively engaged in fishing in the western Atlantic—the United States, Canada, and Japan—are expected to occur before the end of January in order to reach decisions before the February 15, 1982, deadline. Brazil and Cuba, ICCAT members whose fisheries for bluefin tuna in the western Atlantic are insignificant or nonexistent, may also be included in the consultations.

The action taken by the Commission was a product of international cooperation between the United States, Canada, Spain, Portugal, Morocco, France and others. The proposal was approved with eleven members of the Commission voting affirmative (Canada, Cuba, France, Ghana, Ivory Coast, Morocco, Portugal, Senegal, South Africa, Spain, and the United States), three abstaining (Brazil, Cape Verde, and Korea), and one voting in opposition (Japan). Ten votes were necessary to win approval for the measure.

During the negotiations, there were frequent discussions with the Japanese delegation which voiced opposition to the Commission's action. Japan pressed for additional consultations and a review of the scientific data prior to taking any action. Japan also emphasized the economic damage that would befall the Japanese tuna industry as a result of the proposed measures.

Mr. Chairman, we are acutely aware of the serious impact that the Commission's action is also going to have on U.S. fishermen. However, in view of the strength of the SCRS recommendations and the fact that such recommendations have not been made before, the U.S. ICCAT Delegation agreed unanimously that action could not be delayed. Without the Commission's action, serious efforts to halt the decline of the stock of bluefin tuna in the western Atlantic in 1982 would not have been possible.

Under the ICCAT Convention, it normally takes at least six months to bring new conservation recommendations into effect. However, ICCAT members have agreed that the bluefin tuna managment recommendations may take effect earlier. The United States intends to work actively to accomplish this.

Mr. Blondin and I are prepared to answer any questions concerning bluefin tuna or any other aspects of the ICCAT meeting.

Senator **WEICKER**. Mr. Gordon, I will have questions. Why don't we go next to the statement of Mr. Kronmiller.

Mr. **KRONMILLER**. Thank you very much, Mr. Chairman. I would like to address, if I may, the general question of tuna jurisdiction, since Mr. Gordon has already discussed the ICCAT measures which were recently developed at Tenerife.

It is the position of the Department of State, and has been, historically, that tuna can only be managed effectively on an international basis; that they are biologically and behaviorally highly migratory, and range within and beyond the 200-mile zones. To attempt to manage these resources unilaterally simply cannot be carried out in accordance with their biology and behavior. Therefore, the State Department has maintained an active program seeking to come to accord with other countries interested in fishing the tuna and countries in whose zones the tuna appear. We have found at the same time that we have confronted distant water tuna fishing operations in our own zone, and we need to accommodate coastal interests of the United States as well as the distant water interests.

If I may for a moment I would like to explain to you what we have done, particularly most recently, to try to accommodate the coastal interests of the United States with respect to tuna and billfish. You have already heard mention of the ICCAT measures. I would simply like to place a gloss upon that.

The State Department, in dealing with foreign countries and dividing up the permissible cap for 1982–1983, seeks maximum advantage for U.S. coastal interests, that is to say, we will assert preferential treatment for U.S. coastal interests in light of the small size of our vessels and the lack of viable alternatives to fishing for them. We have, as well, negotiated extensive voluntary measures with the Japanese tuna fishermen. These are calculated to reduce the billfish catch and reduce to some extent pressure on the bluefin resource, and to try to reduce the gear conflicts with our own long liners and fixed gear fishermen. These measures apply in the Gulf, off the east coast, and in the Caribbean. Beyond that, the State Department has indicated an increased flexibility in approaching preliminary management plans and fishery management plans.

As evidence of that, in a recent meeting in Hawaii of the Western Pacific Management Council, I indicated that the State Department would not oppose the billfish fishery management plan, which indeed the Department had opposed historically for several years. This would give us a means of protecting the coastal interests without prejudicing our ability to take care of our distant water interests.

If I may, I will just take 1 or 2 more minutes to describe to you why we attach so high a degree of importance to our distant water fleet.

Ninety percent of the tuna that is taken by U.S. vessels is taken in the Pacific and by the distant water fleet. The industry relies upon our distant water fleet as well, unfortunately, as upon some considerable degree of imports of tuna. It amounts to $1.4 billion a year. This is a very substantial income to our economy. It provides many jobs. It is an assistance to our balance-of-payments problem to the extent we are able to produce extensive amounts of tuna in the United States.

It is our view that a change in our juridical position would have an effect and consequence of destroying our distant water fleet. The explanation is very straightforward, really, and is reflected in my prepared statement.

Without the current juridical position of the United States, we would lose the advantage of the Fishermen's Protective Act and the embargo provisions of the FCMA. They serve, in our view, to assure that foreign countries do not attempt to manage a resource unilaterally in a manner which does not reflect their real fishing capabilities, that is to say, the capacity of their fleets to catch the resource. And in addition, these measures assure that foreign countries by exercising duress in attempts to unilaterally manage an international resource will not succeed in compelling a change of flag from ours to theirs.

I can go into more detail, if you like, but that's the essence of the problem. Again, the FPA provisions provide assurance programs and some compensation for losses associated with procedures carried out according to claims we don't recognize. This would be lost if we changed our juridical position and the embargo position would also be lost. On that basis, Mr. Chairman, I would urge that the NOPS consider the full range of U.S. interests involved, and the importance attached to maintaining the juridical position as it stands.

Thank you.

[The statement follows:]

STATEMENT OF THEODORE G. KRONMILLER, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS

Mr. Chairman, I appreciate the opportunity to appear before the national Ocean Policy Study today to discuss the question of U.S. tuna policy as reflected in the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA). Since the Department of Commerce will be discussing the question of the status of Atlantic bluefin tuna stocks, which I know is of great concern to the National Ocean Policy Study, I would like to concentrate my remarks principally on another related issue which I believe is of considerably interest to you—whether action should be taken to bring under U.S. jurisdiction the management of tuna in our Fishery Conservation Zone.

Mr. Chairman, it is the view of the Department of State that, if the United States were to assert jurisdiction over highly migratory tuna, it would have a very detrimental effect on ongoing negotiations aimed at the conclusion of an international regime to assure the effective conservation and management of tuna stocks in the Eastern Tropical Pacific. The extension by the U.S. of jurisdiction over tuna out to 200 miles would consolidate similar measures by other States, thus encouraging self-defeating unilateral efforts to control highly migratory stocks that range through many 200-mile zones and far into the seas beyond. Furthermore, such a radical change in our law and policy would entail severe consequences for U.S. tuna fishermen operating off Latin America, where the greatest portion of the U.S. tuna catch takes place (over 90 percent of U.S. catch comes from Pacific).

Nevertheless, I would like to make it clear that the Department appreciates that the United States has an important interest in the tuna resources off our own coasts. We are acutely aware of the problems which have been created by the presence of foreign longliners off our shores, and of the interest of U.S. coastal fishermen in enhancing their fishing opportunities. We understand and share the frustration experienced in attempting to resolve these problems and to protect and promote our interests in these tuna. At the same time, however, we are convinced that unilateral action by the United States would be ineffective and even counterproductive.

Mr. Chairman, I believe you are aware that during the recent meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) held in Tenerife, November 11-17, the member countries adopted conservation measures for Atlantic bluefin. These measures will have a significant impact on the fisheries for tuna which take place in the U.S. Fishery Conservation Zone (FCZ). As you are also no doubt aware, at the Tenerife meeting, ICCAT agreed to limit catchers of bluefin tuna in the Western Atlantic to no more than 800 tons for each of the years, 1982 and 1983. This measure promises to result in a dramatic reduction in catches of bluefin in this region. The permissible catch is to be divided among the ICCAT member countries which have participated in the bluefin fishery in the Western Atlantic. However the catch is divided, there will be a significant impact on the Japanese longline fishery, which is the major foreign tuna fishery in the U.S. Atlantic FCZ. While the measure may not result in a complete termination of Japanese longlining in the FCZ, it will clearly result in a serious reduction in longline catches of all tunas and billfishes.

Also, Mr. Chairman, voluntary measures were negotiated with the Japanese tuna industry prior to the ICCAT meeting. These were intended to ameliorate the problems created by tuna longlining off our East and Gulf Coasts. With your permission, I would like to submit for the record the text of the new voluntary arrangements and simply summarize them in my testimony and indicate how they relate to the new ICCAT measures.

In the Gulf of Mexico FCZ, the conduct of the Japanese bluefin fishery will be determined by the ICCAT measures, which take precedence over the way in which Japanese tuna fishermen had previously agreed to operate. It is unclear at this time whether or to what extent the Japanese will fish for bluefin in the Gulf. Assuming that there is a Japanese fishery, pursuant to voluntary arrangements there will be a limit of 24 vessels and they will not fish later than May 1. The Japanese will also consider new experimental measures for achieving an additional reduction of the already low incidental catch of billfish.

In the Atlantic FCZ, the nature of the Japanese fishery in light of the new ICCAT conservation measures also is not clear. If there is any Japanese longline fishery, in accordance with the voluntary arrangement there can be no more than 20 Japanese longliners operating in the Atlantic FCZ at any one time between June 1 and September 20. The Japanese will remain seaward of 100 fathoms at all times and abstain from longlining in all areas where the U.S. Coast Guard has reported U.S. fixed fishing gear. Beyond this, there will be no longlining shorewards of 300 fathoms from June 1 through September 20. Finally, the Japanese will also honor new time/area closures calculated to assure U.S. swordfish longliners and red crab and lobster fixed gear fishermen, among others, that there will be times and places for fishing without any risk whatever of gear conflicts with Japanese operations.

In the Caribbean FCZ, the Japanese will continue to abstain from any longlining operations.

Finally, in all areas, previously existing general measures for the avoidance of gear conflicts will be maintained and, in the cases of gear marking and communications, significantly improved. Catch records will be provided not only for billfish, but also now for bluefin.

We recognize that the ICCAT measures and the voluntary arrangements may not satisfy all concerned U.S. fishing interests. On the other hand, we believe they will alleviate the serious problems associated with Japanese longlining off our coasts.

In addition, it should be kept in mind that billfish conservation can be very well addressed through Preliminary Management Plans (PMP's) and Fishery Management Plans (FMP's). Indeed, the Commerce Department plans important improvements to the Existing PMP for East Coast billfish. The Department of State, for its part, has recently demonstrated to the interested Councils a far greater willingness to contribute positively to the use of the plans than has been the case in the past. At the November 30–December 2 Western Pacific Council meeting in Hawaii, the Department abandoned its longstanding opposition to the Draft Billfish Management Plan for that region and the Council thereupon voted to submit the plan to the Commerce Department for final approval.

With this array of measures to protect our coastal fishing interests in mind, I believe that we should consider the economic importance to the U.S. of our commercial tuna industry and particularly the need to protect our highly efficient and productive distant-water tuna fleet.

Last year, U.S. tuna landings were valued at $289.3 million, representing an important contribution to our economy and, more specifically, to our balance of payments picture. On the latter point, I should note that last year, notwithstanding the high level of U.S. landings, our tuna imports amounted to $526.6 million.

Mr. Chairman, it is our firm belief that the extension of U.S. jurisdiction over tuna to 200 miles would place this valuable fishing industry in serious jeopardy. You are aware that negotiations to create a new tuna organization for the Eastern Tropical Pacific have been in progress for nearly four years. A great deal of progress was made early in these talks, but for the past year they have been stalemated. This has been largely attributable to the fact that Mexico has taken a very hard position. Mexico insists that it be guaranteed a very large share of the allowable catch in the region, a share that is notably disproportionate to the capabilities of the Mexican fleet. In short, the Mexican goal in the negotiations is to conclude an agreement which would be of great advantage to the Mexican tuna fleet and at the same time make it more difficult for the U.S. fleet to operate economically and thus drive our vessels to Mexican registration.

The tuna exclusion in the FCMA is both symbolic and practical evidence of U.S. Government support of our tuna industry. If the U.S. extended its 200-mile jurisdiction to tuna, the embargo provisions of the MFCMA and the compensation programs of the Fishermen's Protective Act (FPA) would, in effect, be eliminated, insofar as they relate to the tuna industry. These provisions of law provide the U.S. with important negotiating leverage and without them, the U.S. tuna fleet would be at the mercy of the Latin American coastal States in the 200-mile zones. Without the embargo sanction and the FPA compensation programs, the coastal States with whom we must negotiate would be convinced that, if they simply had the patience to wait, a negotiated settlement would go their way, since the U.S. Government would not in the long run stand behind our industry. Under these circumstances, there would be almost no chance that Mexico and others would make the accommodations necessary to achieve an acceptable agreement. Without these legal protections, the U.S. tuna fleet would soon decide that there is no future in attempting to operate on a commercially viable basis under the U.S. flag. U.S. tuna vessels would be compelled to buy very expensive coastal State licenses and to adhere to whatever arbitrary or discriminatory regulations were imposed by the coastal States, or indeed to remain outside certain zones entirely, without regard to the location and abundance of this rich resource. Recently, Ecuador and Peru doubled their license fees, so that it now would cost the average U.S. vessel almost $100,000 simply to search for tuna, for 50 days, inside 200 miles. Mexico, despite the great abundance of tuna off its coast, refuses to make licenses available to U.S. vessels for fishing outside 12 miles under any terms or conditions.

If I may, Mr. Chairman, I would like to address one argument often made in favor of the U.S. asserting jurisdiction over tuna, and that is that few nations share our juridical view on highly migratory species and that we can never persuade other countries to accept our position. It is true that we are in the minority of the international community on this question, but in the view of the Department of State, ours is the right position. We should not concede to a competing approach that is not in accord with the realities of the behavior and biology of these highly migratory fish, and is not compatible with our economic interest in a strong U.S.-flag, distant-water tuna fleet.

Under the MFCMA, our mandate is to negotiate international agreements to ensure the effective conservation and management of tuna and to secure access for U.S. fishermen to the stocks wherever they migrate beyond a narrow belt of coastal waters. The fact is that the U.S., Mexico, Costa Rica, Panama and other Latin American countries have already agreed to the international management approach. The Latin American coastal States challenge our juridical position only for the purpose of gaining the advantage of a change in our domestic law by which we would lose vital negotiating leverage and our valuable tuna fleet.

Aside from the effect on tuna negotiations, the extension of U.S. jurisdiction over tuna out to 200 miles would make effective tuna conservation and management virtually impossible. Simply put, a unilateral approach to tuna conservation and management cannot work. It is the wide-ranging nature of the animals which makes this so, and this fact cannot be ignored.

All of the commercially valuable tuna species are characterized by very extensive ranges of their populations, long migrations, and high mobility. Their reproduction occurs over long seasons and in great expanses of the sea. In the Eastern Tropical Pacific, the yellowfin tuna migrate from southern California to northern Chile and more than one thousand miles from shore, and react as a single stock to fishing pressures and conservation measures. In a single year, albacore tuna migrate from off the east coast of Japan to the west coast of North America. Northern bluefin tuna move through numerous coastal State jurisdictions. Bigeye tuna migrate from the Central Pacific to the far-western Pacific. Southern bluefin tuna are all members of the same population which has a circumpolar distribution throughout the South Atlantic, Pacific and Indian Oceans.

Because of their ocean-wide distribution, their vast and shifting migratory patterns, and the temporary nature of their presence in the waters off any single State, it is clear that the tuna can only be effectively conserved through the cooperation of the coastal and fishing nations involved. Without international management, overfishing could easily occur. The experience in the Eastern Tropical Pacific in recent months appears to confirm this view.

Mr. Chairman, I am aware that, in the past, consideration has been given to including only Atlantic bluefin tuna under U.S. jurisdiction. Unfortunately, this approach would not ameliorate the impact on the international negotiations relating to the Eastern Tropical Pacific. In many ways, such a change would be even more harmful. The biological characteristics and migratory habits of Atlantic bluefin tuna cannot be distinguished from those of other tunas in a manner which would rationally support a separate management approach. Thus, a persuasive and effective case could simply not be made to other countries to justify U.S. action to place Atlantic bluefin tuna under our fishery management authority, while continuing to refuse to recognize other nations' claims with respect to other tuna species elsewhere.

In addition, extended jurisdiction over bluefin tuna by the U.S. could lead to a collapse of the international conservation measures recently agreed by ICCAT. Pressures to reserve unilaterally for U.S. fishermen all bluefin tuna in the U.S. zone could require a fundamental abandonment of the ICCAT agreement. It would remain open to countries such as Japan, to insist that we live up to our ICCAT obligations and thus possibly force a U.S. withdrawal. Should the ICCAT arrangements subsequently collapse, Japan could lawfully fish beyond our 200-mile zone and thus destroy any effective efforts at true conservation. Having achieved just this year major progress in ICCAT toward conservation of the bluefin, it would appear counterproductive to abandon them now.

Mr. Chairman, my statement has dealt at some length with vital conservation considerations and with the weighty economic interests of our distant-water tuna fleet. We are also mindful, however, of the economic interests of our coastal fishermen in the Gulf of Mexico, Atlantic, Caribbean and Western Pacific areas. We feel that the combination of our current domestic juridical position, international agreements, and voluntary measures on the part of foreign fishing vessels operating in our zone, best serves the balance of our national interests.

Again, thank you for the opportunity to testify on this important subject. I would be pleased to answer questions.

Senator **Weicker**. Will the Japanese go along with the ICCAT recommendation of 800 tons for the western Atlantic bluefin tuna?

Mr. **Kronmiller**. Mr. Chairman, it's my belief that Japan will, if I may, and I would like to explain why. We think the scientific evidence is compelling. I don't think there is going to be any evidence that will be developed that will be more compelling that would argue for a larger quota. I also feel the Japanese will understand the importance which we attach to these measures, and that we will, if necessary, utilize our ability to hold Japanese allocation of our surplus resources in our zone in order to assure that they follow ICCAT.

Senator **Weicker**. I understand that you went into the November ICCAT meeting with the idea of pushing for a coastal state preference regime whereby U.S. fishermen have the first opportunity to take bluefin from our coastal zone.

Mr. **Gordon**. That's correct. Mr. Blondin, who headed our delegation, went there with that position, and we are still committed to that position, in respect to the very small quota that we have.

Senator **Weicker**. In your testimony, Mr. Kronmiller, you state that the passage of S. 1564 would mean that the United States will not be able to apply the import prohibitions of section 205 of the FCMA; however, I have here a five-page memorandum from the CRS American Law Division stating that the U.S. will retain the prerogative to embargo intransigent countries.

Can you expand on your position?

Mr. **Kronmiller**. Mr. Chairman, I am not familiar with that CRS memo. I would be very interested in seeing it.

Senator **Weicker**. I apologize, and I agree that you should have seen this before I asked the question.

I would appreciate it if you would look at the memorandum and then respond for the record.

Mr. **Kronmiller**. I would be pleased to. Thank you very much.

Senator **Weicker**. Let me ask you—just one of you. Why do we find ourselves in this emergency quota situation which amounts to zero bluefin for U.S. fishermen? It seems to me a drastic, sudden action. What was the prologue to all of this? What did we ignore to get ourselves into the situation we find ourselves in today?

Mr. **Gordon**. Mr. Chairman, if I may, I will go first on that. I have been involved from the beginnings of our involvement in ICCAT. I think it was a general reluctance for the United States, first, to join ICCAT many years ago, and the ratification of our entry was somewhat delayed because there was a general feeling that the tuna stocks of the Atlantic were fairly healthy.

A long-time colleague of mine, Dr. Frank Mather, was carrying on research which we supported for many years, and he began to develop the data base which indicated that was to the contrary. So back in 1975, we moved strongly to try and bring bluefin under management. Unfortunately, the data base, the scientific collection of data, had not been very good over the many years.

As a result, there was a sparsity of data on which to base a strong scientific recommendation to ICCAT. When it was first presented, there was difficulty ascertaining whether there was a single stock in the North Atlantic or whether there was indeed two stocks. Over those years, since 1975, the United States has pressed annually at the meetings for a stronger management regime, and it's borne fruition this year, but it has taken a relatively Herculean effort to pull together the data and to do a relatively in-depth analysis of the total stock, treating it as a single stock or treating it as two separate stocks. And it has finally shown that the western stock—and there is reasonably strong evidence that there are two stocks now—has declined very appreciably in the last few years from the shifting fishing strategies that have gone on in that same period of time.

The record will show that the Japanese in particular changed their strategies from the eastern Atlantic and Mediterranean to the western Atlantic in that timeframe. This in part was responsible for the decline of the large tunas.

Mr. KRONMILLER. Mr. Chairman, if I may comment, it is not our understanding at all that there will be a zero take for U.S. fishermen. On the contrary, of the 800 tons, we expect to negotiate the bulk of that in favor of the U.S. fishermen on the basis of the preferential treatment theory.

Senator WEICKER. Do you think you will be successful in that?

Mr. KRONMILLER. I think that we have a high probability of success; yes, Mr. Chairman.

Senator WEICKER. When will this be known?

Mr. KRONMILLER. This will be established prior to February 15.

Senator WEICKER. Considering the long time it took ICCAT to act, do you think that we ought to bring tuna under our own protection? Granted, the problem is how do you do that effectively with highly migratory fish? Any unilateral action, I suppose, would be difficult. I just wonder how much more delay there will be.

Mr. KRONMILLER. Mr. Chairman, again, if I may make a couple of comments: First, we should note that the ICCAT regime will provide protection out to about 1,500 miles, in approximately 20 jurisdictions in the western Atlantic. The unilateral move by the United States would account for only our own 200-mile zone, which is a small part of the habitat of the resource.

It would be within the legal capability of foreign countries to move against that resource in other zones, or beyond our own zones, on the high seas. On that basis, we think there is an advantage to international management, and we ought to make sure that it is realized.

Senator WEICKER. Are you trying to continue to update the scientific base?

Mr. GORDON. Yes, sir. We're scraping for every bit of evidence and data that we can find on the status of those stocks, and we'll continue to refine that undertaking, and that report, so that it reflects the best scientific evidence that is available.

Senator WEICKER. I have no further questions at this time. As I indicated, there will be questions for the record. Gentlemen, thank you very much.

The next panel will consist of Christopher Weld, secretary and executive director of the National Coalition for Marine Conservation; Mr. Myron Nordquist of Nossaman, Krueger and Marsh; Mr. David Burney, counsel of the U.S. Tuna Foundation; Mr. Roger Anderson, the executive director, Gulf and South Atlantic Fisheries

Development Foundation. Representing the Japan Fisheries Association, Alan Macnow.

Chris Weld, since you're an old friend, I can pick on you first.

STATEMENTS OF CHRISTOPHER WELD, SECRETARY AND EXECUTIVE DIRECTOR, NATIONAL COALITION FOR MARINE CONSERVATION; MYRON NORDQUIST, ON BEHALF OF LUND's FISHERIES; DAVID BURNEY, COUNSEL, U.S. TUNA FOUNDATION; ROGER ANDERSON, EXECUTIVE DIRECTOR, GULF & SOUTH ATLANTIC FISHERIES DEVELOPMENT FOUNDATION; AND ALAN MACNOW, PUBLIC RELATIONS COUNSEL, JAPAN FISHERIES ASSOCIATION

Mr. **Weld**. Senator Weicker, it's a pleasure to appear before you again.

Our organization has appeared before Senate committees on several previous occasions, working for the passage of the Atlantic Tuna Protection Act of 1975, the 200-mile limit in 1976, and we made an earlier attempt to put the bluefin under Federal fishery conservation management jurisdiction. In each of these instances we have heard the State Department representatives come before you and make the same tired old argument to the effect that tunas are highly migratory and therefore they can't be managed within the 200-mile limit. They usually tell you that any attempt to interfere with foreign fisheries for tunas will deteriorate our negotiating position vis-a-vis Latin American nations, and so on, so it's a great disappointment to me to come here again today and hear Mr. Kronmiller trot out the same tired old shibboleths.

In the first place, now after the meeting in Tenerife, all of the scientists representing nations having significant economic stakes in the Atlantic bluefin tunas agree that in fact there are two stocks of tuna in the Atlantic with very little intermixing between the two. But for the most part in the western Atlantic, tunas range over the continental shelf within the 200-mile limits of Canada and the United States. These fish, although they do in fact migrate in a large circle, are not equally vulnerable to long-line fishing or any other kind of harvesting throughout that whole distance. There have to be concentrations of those fish in order to sustain an economically all viable long-line fishery. Those concentrations only occur over the continental shelf where the fish congregate either to spawn or to feed.

So we are absolutely convinced that in fact the bluefin tuna can be managed within the 200-mile limit; that action by this country can be taken to effectively halt the overfishing that's been going on for the last 10 or 15 years or longer, and to start to rebuild and restore the stocks to their former levels of population that will sustain strong American fisheries, both recreational and commercial.

We think, too, that since the American fisherman is being called upon to make the sacrifices and to make the stock restoration and rebuilding happen, and that because to a large extent the American fisherman was not responsible for putting the stocks in the condition they are in today, the American fishermen should reap the reward of the restraints that are going to be imposed on them.

It should be pointed out that the tunas are long-lived fish. They don't reach sexual maturity until between the ages of 6 and 8 years old. So turning the situation around isn't going to take place overnight. It's going to take a number of years of really draconian conservation measures. We doubt very much that any international organization has the stomach to last the course. Certainly the history of the international fisheries organizations does not give you much cause for optimism in this respect. Therefore, we strongly urge that the Fishery Conservation and Management Act be amended to do away with the tuna exemption and give the United States the enforcement authority and the ability to monitor the fishery in order to see that these long-term conservation habits are effectively carried out.

We ask you also to remember that when you're talking about tuna conservation and the tuna problem, you're not talking about tunas alone. Long lines do not discriminate between the various pelagic fishes that swim in the same areas as tunas and they catch very large numbers of swordfish, blue marlin, white marlin, and other economically significant species of fish. We don't have the kind of numbers for swordfish that we have for bluefin, but most commercial fishermen will tell you that the swordfish stocks are in very, very serious conditions. There are quite a few boats that are leaving the fishery that can no longer make a living at it. There aren't enough fish there, and the people that remain in the fishery complain that continual gear conflicts with Japanese gear is making significant inroads on their profitability.

I talked just last week, for example, with one of the first fellows into the fishery, a fellow who for years has been making an extremely good living at it, and he's quitting. He's going to some other form of fishing. He just lost too much gear and he can't make any money fishing. That's really the principal thrust of the written testimony that I have submitted which I hope will be incorporated in the record.

I think the thing that all of us have come to recognize now is that, in fact, there is a severe resource crisis. Since 1973 there have been a number of cohort analyses conducted by the National Marine Fisheries Service in order to try to fully understand the dimensions of the problem.

Because they've dealt with different numbers and the variables involved weren't fully understood, the studies came up with different results creating a credibility problem with some elements in the fishery. However, all these studies pointed conclusively to a downward trend.

This is the chart that appeared with the ICCAT report. This axis here shows the years beginning in 1960 through 1981, and this axis here shows the numbers of tuna at the 10 to the fourth power, or in hundreds of thousands of fish. And the three lines show the various sizes of tuna. All those lines point downward, and it really doesn't matter exactly how accurate the numbers are. If you multiply the numbers by a factor of four, you still have a problem. The real question is whether the problem is curable or reversible, or whether it's already gone too far.

[The statement follows:]

STATEMENT OF CHRISTOPHER M. WELD, EXECUTIVE DIRECTOR, NATIONAL COALITION FOR MARINE CONSERVATION

Mr. Chairman, on behalf of the many sports and commercial fishermen across the Nation who support the national coalition for marine conservation and who have expressed their alarm for many years concerning the continued depletion of Atlantic bluefin tunas, I want to thank you for inviting us to appear before you today to testify in support of S. 1564. In fact, the depletion of Atlantic bluefin tunas, which was perceived by many fishermen to be a serious threat in the early 1970's was one of the catalytic forces that led to the formation of our organization. We have appeared before this committee in support of the adoption of the Atlantic Tunas Protection Act, the Magnuson Fishery Conservation and Management Act and an earlier effort to amend the Magnuson Act to include "highly migratory tunas." During all these years the tuna situation has continued to deteriorate and is now recognized by scientists around the world, including Japanese fishery scientists, as being a population crisis.

In terms of international law and fishery politics the tuna situation is very complex. Tunas range widely, migrating great distances through the oceans of the world. In both the Atlantic and the Pacific there are several major species that sustain significant international fisheries. That international organizations have been established to monitor the status of tuna populations, allocate harvests among nations and recommend conservation measures where appropriate is a reflection of the fact that the major fishing powers of the world are exerting tremendous fishing pressure on the stocks. It is also a reflection of the fact that depending where it is deployed, there is sufficient harvesting capacity to damage, possibly to annihilate, any stock or any species of tuna—in a relatively short period of time. Moreover, total fishing capacity is expanding very quickly. For example, the Mexican tuna fleet is growing so fast that experts predict that it will equal the U.S. fleet by the end of 1982.

Such is the magnitude of the economic benefits generated by the tuna fisheries, that politics frequently obscure scientific reality when it comes to assessing the true condition of any significant population of tunas. Moreover, population dynamics analyses involve estimates and assumptions that leave room for a degree of subjective interpretation. Accordingly, estimates often err on the optimistic side. As a result, although we are assured that other tuna populations are healthy, it would be wrong to accept such assurances at face value or to assume that no other stock or species of tunas is presently being overfished. Note also that against this background the consensus among the international scientific community concerning the crisis condition of Atlantic bluefin stocks is all the more remarkable.

The record of international fishery management is not a good one. For the most part governments, national fishing industries and individual fishermen make poor conservationists. While most avow a commitment to conservation, few are willing to forgo any part of today's harvest in order to assure tomorrow's. It would be a great mistake therefore for this country to rely exclusively on the effectiveness of any international fishery management regime to protect our national interest in any fishery resource. The recent collapse of the Inter American Tropical Tuna Convention (IATTC) and the International Convention for North American Fisheries (ICNAF) should warn us that international regimes have a high mortality rate. More specifically, in the case of ICCAT, resolutions adopted in one year are not immune from challenge in a subsequent year. Perceptions of national interest can be as ephemeral and short-lived as good intentions.

However healthy stocks of other species of tunas may be now or in the future, there are few who would seriously dispute the findings of the National Marine Fisheries Service. According to a briefing presented to the U.S. ICCAT delegation's advisory committee, stocks are down 87 percent from the levels that prevailed in the early 1960's. There has been no strong spawning year since 1973 and no strong year class presently exists that could in time augment the drastically depleted spawning stocks. Bluefins are a long-lived fish. A bluefin doesn't mature sexually and become a spawner until sometime between age 6 and age 8. Restoring tuna populations is a long-term proposition, and there is nothing in the history of international fishery institutions in general or in ICCAT records in particular to give credence to the expectation that ICCAT will have the stomach to adhere to the kind of long-term restraints required to accomplish a satisfactory rehabilitation of bluefin stocks.

A moratorium such as the one recommended by ICCAT will mean a substantial loss of income to fishermen who rely on bluefin tunas as a mainstay of their fishing operations. The fishermen that will be hurt the most are those that are the least responsible for the present poor condition of the stocks. Since they are being asked to make a sacrifice as the price of undoing the harm caused by others, they should be assured that they will enjoy the benefit of any improvements in the condition of the stocks. Eliminating the tuna exclusion is one way of giving them such assurance.

Eliminating the tuna exemption will not solve all management problems relating to tunas. Indeed, such a small percentage of the world harvest of most tuna species is taken inside the 200-mile fishery conservation zone that the beneficial impact of U.S. management efforts alone will be insignificant. Those species can only be managed pursuant to international agreement. On the other hand, the bulk of bluefin tunas from the western Atlantic stock are harvested inside the 200-mile limits of Canada and the United States. Moreover, because fairly dense concentrations of bluefin are necessary to sustain an economically viable longline fishery and because such concentrations occur for the most part over the continental shelf where tunas congregate to feed or spawn, closing the FCZ to foreign longlining—particularly if accomplished on a coordinated basis with Canada and perhaps Mexico—will not as alleged result merely in a redeployment of foreign longline fishing effort to areas outside the FCZ. The Japanese would not subject themselves to the economic and other burdens of compliance with U.S. regulations and would not happily incur gear conflicts and the palpable ill will which result from operating inside the FCZ if it was practical to fish elsewhere.

Beginning in 1974 the Japanese concentrated virtually all of their fishing effort directed upon bluefin tunas inside the FCZ. Catches averaged about 5,000 metric tons annually including giant fish taken on Gulf of Mexico spawning grounds as follows: 1974—1,249; 1975—6,381; 1976—10,077; 1977—9,800; 1978—8,059; 1979—10,000; 1980—8,500; 1981—7,700.

In the same period that the Japanese were taking 5,000 tons of bluefin, U.S. sports and commercial fishermen caught an average of 2,000 tons. In other words, the Japanese take exceeded the American take U.S. waters by 150 percent or more.

It is not a coincidence that no strong spawning year has occurred since the Japanese operations focused upon the western Atlantic and Gulf of Mexico. Note also that the last strong year class, the tunas spawned in 1973, have been heavily depleted. The 1973s were the keystone of the NMFS conservation strategy which was designed to protect this cohort until it reached sexual maturity and replenished the standing stock of adult spawners. Unfortunately, most of the 1973s failed to survive and the NMFS conservation strategy was thwarted. Extending U.S. fisheries jurisdiction to 200 miles by eliminating the tuna exemption in the MFCMA would allow NMFS to impose conservation measures on domestic and foreign fishermen alike, ensuring a far greater likelihood of successful management. As of this moment any foreign flag vessel can fish for tunas free of any enforceable restraint or regulation in the FCZ into the outer limit of the territorial sea.

At a recent meeting of ICCAT a majority of the parties to the treaty adopted recommendations which amount to a virtual moratorium on bluefin tuna fishing in the western Atlantic, the Gulf of Mexico and the Caribbean. The Japanese delegation voted against the measure which entitles Japan to reject it and to maintain operations at present levels. This opens up the possibility that American fishermen bound by the U.S. agreement (unless it is abrogated) will have to cease fishing in the FCZ while the Japanese continue to do business as usual. In fact, such a situation would amount to no more than an extenuation of the present situation in which fish forgone by U.S. fishermen as a result of our rigorous adherence to earlier ICCAT conservation measures have fattened Japanese catches. The cost in terms of lost economic and recreational benefits is immeasurable. At this time nobody can say whether the Japanese will choose to accept or reject ICCAT's recommendations, but there is a real possibility that Japanese will now or at some future time decide to reject them and to repudiate all of the voluntary agreements heretofore announced.

The recent action of ICCAT in recommending a moratorium should not be regarded as obviating the necessity for U.S. tuna jurisdiction over tunas in the FCZ. Instead, one should be regarded as supplementing the other. The problem with relying upon an MFCMA amendment alone is that U.S. jurisdiction extends only to 200 miles. On the other hand, ICCAT recommendations are only recommendations and as such are unenforceable even against nations that are parties to the convention. Compliance is voluntary, and there is no mechanism for monitoring tuna operations. In the absence of an MFCMA amendment it is difficult to deny access to the FCZ for the purpose of tuna fishing to any foreign flag vessels. Of course, bringing tunas under the authority of the MFCMA would have the further advantage of making the fishery management councils responsible for allocating ICCAT quotas. Given the limitations under which it has had to operate, the NMFS has done an excellent job of managing the domestic tuna fisheries; however, it would be more consistent with prevailing policy to transfer that responsibility to the councils.

Another reason for eliminating the tuna exception to the MFCMA is the problem of controlling the incidental catch of other commercially and recreationally significant species including blue marlin, white marlin, sailfish, swordfish, dolphin, wahoo and sharks. All these other fish occur in the same waters as tunas and are taken in large quantities by tuna longline gear. In recent years the Japanese have grudgingly yielded voluntary concessions which should in time ameliorate some aspects of the bycatch problem. But some of these species—swordfish and marlins in particular—have been greatly overfished as a result of longline operations for a number of years to the point where there is cause for concern. The latest data indicates that Japanese longlines have taken fewer marlins in recent months, but swordfish catches have increased markedly. Unfortunately there is little scientific knowledge concerning the status of swordfish populations. We are advised by commercial fishermen, however, that populations appear to have been greatly reduced as a result of overfishing, and a number of vessels, particularly in the Gulf of Mexico, have left the fishery. Many of the remaining operators complain that gear conflicts with Japanese longlines have impaired their ability to operate profitably.

Until recently the fishery management councils have been unable to formulate a strategy for the conservation and management of billfish, swordfish or sharks that did not in the opinion of the State Department constitute an undue burden on the right of foreign vessels to fish for tunas in the FCZ. To be sure, there are indications that attitudes have changed and that new policies now prevail at the State Department, but there is no assurance that having changed, they will not change again. Without absolute control over the foreign fishery there is no really effective way to reduce the incidental catch of tuna longlines to acceptable levels.

The aggregate economic value of the fisheries impacted by foreign longline operations is unknown. According to the fishery managment plan for billfish, a largely recreational fishery, some 66,000 recreational fisheries participate annually generating revenues of about 100 million dollars. The swordfish fishery which is predominantly a commercial fishery involves 10,000 participants and associated economic impacts amounting to about 25 million dollars. Both fisheries are prosecuted from all of the coastal States from Texas to Massachusetts, inclusive, Puerto Rico and the Virgin Islands.

The bluefin tuna fishery is conducted by sports and commercial fishermen from Maine to Texas. The principal domestic fishing operations concentrating on giant bluefins are located in New England, New York and New Jersey in the Northeast while the principal foreign fishing effort on giant fish is located in the Gulf of Mexico. Japanese longliners also fish for small tunas along the edge of the continental shelf from Cape Hatteras to Georges Bank. The smaller school tunas are a very important target species for charter fleets based on New York, New Jersey, Delaware and Virginia ports. No figures exist to indicate the number of participants or the economic value of the bluefin tuna fisheries, but most State officials in the principal tuna fishing States agree that the sport fishery for school and giant bluefins is at least as great in value as the billfish fishery ($100 million) and may involve about as many people (66,000).

Ending the tuna exemption is bitterly opposed by the U.S. distant water fleet based in San Diego and the State Department which since the end of World War II has predicated all U.S. fisheries policy on the needs of the San Diego industry. To be sure, the ex-vessel value of the U.S. distant water tuna catch is about 200 million dollars or roughly twice the value of the billfish fishery. Taking into account vessel crews, dockworkers and packing plant employees, several thousands of people are involved. Most of the rest of the economic value of the tuna industry is accounted for by imported fish. Therefore, in terms of balance of payments the tuna industry is a debit item.

Since the disintegraton of IATTC the State Department has been attempting to negotiate international arrangements assuring access for U.S. flag vessels to tuna resources in Latin American waters. State Department spokesmen promise us that some kind of international licensing agreement will be successfully negotiated in the near future. They admit that agreements concerning how the catch shall be shared among the U.S. and Latin American coastal states are farther down the road. In reality, however, so long as the U.S. distant water industry is indemnified under the Fisherman's Protection Act against penalties levied for violating foreign fishing laws, there is no incentive to induce the U.S. industry to make the kind of accommodation required to achieve a long-term solution to international allocation problems.

Nevertheless, the central theme that is continually reiterated in opposition to extension of U.S. management authority to tunas is that such unilaterial action will undermine the U.S. negotiating position vis-a-vis Latin America. This position is not defensible in logic or in equity, yet it has been the rallying cry of head-in-the-sand diplomats and tuna boat operators for nearly a generation.

In fact, unilateral action by the U.S. can have little effect on San Diego's dealings with Latin America. The Latin American position crystalized with the Declaration of Santiago in 1957 and has been asserted unrelentingly ever since. To a large extent it has been recognized and incorporated in the draft Law of the Seas treaty. There the concept is referred to as "Coastal States' preference," but it amounts to the same thing.

LSU's law of the seas expert, Prof. Gary Knight, recently stated that if the U.S. adopts the tuna amendment, there could be either of two reactions in Latin America: a rational response or an irrational response. A rational response might involve a slight increase in the price of entry to coastal State waters for U.S. vessels. An irrational response, which given long-standing national attitudes is a much more likely reaction, would be to deny any access to U.S. vessels. As this is the now prevailing attitude in many Latin American nations—an expression of nationalism or national machoism fired by the irresponsible behavior of U.S. industry—nothing will change one way or the other as a result of U.S. action.

In summary, a real and present crisis threatens tuna populations in the western Atlantic. Only prompt and radical action extended over a decade or more can cure the current, alarming depletion and lead to the restoration of tuna stocks to a level that will safely sustain domestic sports and commercial fisheries on a long-term basis. The recent action of ICCAT in recognizing the gravity of the situation and recommending a moratorium on tuna fishing in the western Atlantic is a welcome and important step in the right direction. However, in the past international institutions have shown little enthusiasm for biting the conservation bullet hard enough and long enough to effect long-term solutions.

Moreover, the interaction of other economically significant fisheries such as the swordfish and billfish fisheries poses management problems that defy solution in the absence of authority to control the foreign fishery for tuna in the U.S. 200-mile zone. A number of newly initiated attempts to ameliorate the tuna bycatch problem are very promising and may, if implemented, achieve solid results. Nevertheless, they can be stymied at any time if the Japanese or any other fishing nation elects to ignore ICCAT's recommendations.

The costs of unilateral action by the U.S. are entirely conjectural and have long been exaggerated by the same people who predicted that adopting the 200-mile limit would lead to world chaos. These are the same people who have argued in the face of mounting, empirical evidence that there is no resource crisis as far as the bluefin tuna is concerned. Worldwide declining catches, they tell us, are some kind of a statistical aberration. The costs of failing to take action in terms of lost economic and recreational benefits to participants in the tuna, billfish and swordfish fisheries and other fisheries subject to retaliatory actions by other countries are real even if they are unquantifiable.

We urge this committee with the utmost sincerity and conviction to look carefully at the scientific evidence—data that has withstood the critical scrutiny of the international scientific community. This data should prove beyond a shadow of a doubt that immediate action is required; that such action must be taken over a long period of time in order to be effective; and that such action can only be taken in the context of a regime that provides for monitoring, surveillance and enforcement. Such action can only be taken if the Magnuson Fishery Conservation and Management Act is amended by eliminating the exemption relating to highly migratory tunas.

Senator WEICKER. Thank you very much, Chris.

Mr. Myron Nordquist?

Mr. NORDQUIST. Senator, my position is very similar to that of Mr. Weld, with respect to the Atlantic Ocean. May I simply say that the ICCAT moratorium on commercial fishing has really devastated Lund's Fisheries plans.

I'd like to embellish upon another point; that is, that the U.S. policy in the western Atlantic and the eastern Pacific and the western Pacific is interlinked. I think it's important when we talk about unilateralism to recognize that the unilateralism is on the part of the United States in not getting in step with what the rest of the world has done on tuna. If you look at international law, you really look at two aspects: first, you look at what states do, so-called state practice. There, the evidence is overwhelming. Over 90 states, according to State Department figures, claim jurisdiction out to 200 miles. There are only a very few that do not assert jurisdiction over tuna, and these are states such as Japan, Spain, and the United States. So when we talk about unilateralism, let's recognize that the unilateralism in on the part of the United States in not recognizing the rights of these coastal states over the tuna.

That's one aspect, state practice. Another is the conventional law; namely, what states say they're going to do. Here we can look at the records of the Law of the Sea Conference, with which you are quite familiar. Article 64, when analyzed, imposes a duty to cooperate with respect to highly migratory species. This is an overlay, after there have been sovereign rights asserted over all the resources.

When we talk about the U.S. position, we should recognize that we have an arcane position, retained for the last 30 years, although a fundamental shift has occurred in ocean jurisdiction. Prima facie, the position has failed in the western Atlantic, simply by the decline of the stocks. I won't prolong the discussion on that.

With respect to the real reason for the position, namely, that we expect to exact concessions from Mexico and Canada by taking a hard-line position, I think the record there speaks for itself. It would be instructive to ask in detail what those concessions have been in the last 2 years. It also might be instructive to ask the Canadians and the Mexicans whether they feel our policy has been productive or counterproductive.

Senator, there is one very major aspect of our entire policy that has been ignored. That is our responsibilities to the Trust Territories of the Pacific. The greatest 200-mile jurisdiction by any state is that of the United States, some 2.5 million square nautical miles. That jurisdiction is only exceeded in size by the trust territories, which are not sovereign states yet, but which have some 3 million square nautical miles. Unfortunately, that's not a particularly good chart, but I think you can see by it, Senator, that the coupling of the jurisdiction of the trust territory entities and the jurisdiction of the South Pacific forum states, some 13 nations—very friendly nations to the United States in the South Pacific—adds up to about 6 million square nautical miles of the 200-mile zone.

In that area there is a tuna resource that is highly underutilized. It's a gigantic resource. The United States has only begun to explore how to tap into that resource. Indeed, the American Tunaboat Association has signed an agreement with the Federated States which, incidentally, recognizes coastal state jurisdiction over the tuna under international law. We are just now starting to move out there. But we need, in a holistic approach, to take into account the future of our industry. I suggest that we have a less confrontational policy and we live up to our responsibilities to the trust territories. If the State Department looked at those aspects as well, we would conclude that we are a coastal state with very substantial fisheries' access rights available to us as a coastal nation.

The last and major point is that the time has arrived for the United States to assert jurisdiction over highly migratory species.

We must get into step with the rest of the world, quit trying to bludgeon our neighbors into concessions that obviously do not work, and live up to our trust territory obligations.

Thank you.

[The statement follows:]

STATEMENT OF MYRON NORDQUIST ON BEHALF OF LUND'S FISHERIES

Mr. Chairman, my name is Myron Nordquist and I am a partner in the Washington, D.C. office of the law firm of Nossaman, Krueger & Marsh. It is a pleasure to be here today and I thank the National Ocean Policy Study for the opportunity to testify on the status of Atlantic bluefin tuna problem.

Lund's Fisheries has asked me to convey its views on the state of Atlantic bluefin tuna stocks. Lund's has been in the fisheries business for over 25 years and operates a shore-based processing facility in Cape May, New Jersey. As a typical Atlantic seaboard processing company, Lund's Fisheries purchases product from a number of U.S. fishermen. Last summer, the firm packed the tuna caught by three U.S. flag vessels which are based in New Jersey and fish in the U.S. 200-mile zone. Without the availability of these "highly migratory species", Lund's would have been forced to lay off 85 percent of some 60 employees.

Thus, Lund's was distressed to learn that the Seventh Meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT) recommended that all commercial fishing for Atlantic bluefin tuna by U.S. fishermen in the Western Atlantic cease for the next two years.

Lund's accepts the scientific finding that the number of adult bluefin in the Western Atlantic is 15 percent of its 1960 level, that the juvenile stock is 10 percent of the 1960 level, and that the recruitment rate is 12 percent of the 1960 rate. But Lund's asks how these tuna stocks reached such intolerable levels, especially in the U.S. 200-mile conservation and management zone?

The root cause of the depleted tuna stock is that these species need mandatory conservation and management just as other fish do. The fact that tuna often migrate through several coastal State jurisdictions simply reinforces the need for greater conservation and management. Supposedly, the stocks were under the watchful eye of ICCAT, consisting of 19 member nations. But the ICCAT has failed to protect and maintain the stock levels of tuna and tuna-like fishes in the area. Experts say the problem was caused by overfishing by foreign nations and the failure of ICCAT's voluntary measures. Moreover, there is no guarantee that the most recent "no fishing" recommendation will be followed by the offending nations.

The U.S. often defends its tuna position on scientifc grounds. But was it in accord with biological principles for the U.S. to assert on November 10, 1981 that the Japanese could catch all the Atlantic bluefin tuna they wished in the U.S. 200-mile zone and one week later to assert that none should be taken? The facts are that many U.S. fishermen and processors in the Atlantic are being penalized for the benefit of a small but powerful constituency in Southern California.

If the U.S. is to continue to exclude tuna from its 200-mile jurisdiction, the rationale should be that this policy is in the overall national interest of the U.S. In reality, however, it is probably fair to say that the policy is justified by its benefits to a geographically concentrated, but highly influential constituency in Southern California. Certainly, the tuna policy presently advocated by the U.S. appears to be detrimental to many U.S. fishermen and processors, especially on the Eastern seaboard. Moreover, world opinion is overwhelmingly against the U.S. position and we are increasingly involved in confrontations, even with our immediate neighbors. According to Department of State figures, 90 nations have established 200-mile jurisdiction. Only a few distant water tuna fishing nations such as Japan and Spain do not claim to control all fish, including tuna. The U.S. position is clearly out of step with State practice in the international law sense.

Is the rationale for the U.S. exclusion of tuna that we believe ourselves to be predominantly a distant-water tuna fishing nation? If so, it may be worthwhile to examine that premise.

The U.S. tuna exclusion crystallized in the early 1950's when U.S. tuna boats were seized for fishing within the claimed 200-mile territorial seas of Latin American countries such as Ecuador and Peru. The U.S. identified a strong national security interest in challenging the validity of broad territorial claims which reduced the high seas areas in which our military vessels and aircraft could freely operate. But navigation and overflight are one thing, and fishing is quite another. This difference is exemplified in the Exclusive Economic Zone compromise at the Law of the Sea Conference. However, the U.S. has apparently never re-analyzed its tuna position in light of fundamentally altered national security circumstances in the oceans.

In the past five years, the global scope of coastal State fishery jurisdiction has radically changed. Now 200-mile fisheries zones cover an area nearly equal to the world's land territory (see Appendix 1). The U.S. itself has the largest 200-mile zone of any sovereign State, some 2½ million square miles. Interestingly, three Western Pacific States, Australia, Indonesia and New Zealand, rank respectively numbers 2, 3, and 4 in total world-wide fishing zone area. But perhaps the most striking fact of all is that the 200-mile zones around the Trust Territories of the Pacific Islands are collectively even larger than the U.S. zone, covering over 3 million square miles, or an area roughly equal to all U.S. land territory. The U.S. can no longer afford to ignore these strategic changes in ocean area under national jurisdiction.

Moreover, approximately equal amounts of tuna are caught in the Eastern and Western Pacific area. While the present value of the stocks in the Eastern Pacific is greater, the potential value of the stocks in the Western Pacific is much greater. Recent FAO stock assessment programs in the Western South Pacific indicate under-utilized skipjack stocks of a staggering magnitude, akin to the vast stocks of pollock off Alaska.

The need for cooperation among the government in the South Pacific to converse and manage tuna in the region is recognized and documented. As Appendix 2 shows, representatives of the Federated States of Micronesia, the Republic of Kiribati, the Marshall Islands, the Republic of Palau and Papua New Guinea initialed an agreement on November 6, 1981 to cooperate in the management of common tuna stocks. Shortly, additional States are expected to join in this arrangement which will be closely coordinated with the related activities of the South Pacific regional fisheries agency organized in 1979 by the thirteen member nations of the South Pacific Forum.

It is worth noting that the combined 200-mile zones of the members in these two regional bodies approach six million square miles. Tragically, the U.S. is not a participant in forming these regional tuna arrangements although our existing laws clearly direct such policy action. Even more ironic is the fact that the U.S. is one of the largest coastal States in the "region." As events are currently unfolding, a juridical regime is being developed for an area covering a substantial portion of the strategically important South Pacific Ocean and the U.S. is an outsider because of its rigid tuna exclusion policy.

There are national security risks from the U.S. stance. For example, there are strong anti-nuclear sentiments in the South Pacific. Prohibitions in 200-mile zones on nuclear dumping or even transit by nuclear aircraft or vessels could be politically popular. Our own overseas territory, Guam, has already declared such an anti-nuclear dumping zone. Can the U.S. afford to stay out of the development of the 200-mile jurisdiction in this region because of our Southern California tuna interests? Have these risks been weighed in our assessment of the overall U.S. national interest in continuing our tuna confrontation policy?

The potential for tuna development in the U.S. Trust Territories has not been overlooked by the U.S. tuna industry, as evidenced by the signing of the "Agreement Between the Maritime Authorities of Micronesia and The American Tunaboat Association," as amended to be effective through 1982 (Appendix 3). It is also interesting to note that in this agreement the U.S. Tunaboat Association explicitly acknowledges the exclusive fishery management authority over tuna of the Federated States of Micronesia, the Government of Palau and the Government of the Marshall Islands.

The Tunaboat Association's willingness to recognize coastal State exclusive management over tuna in its business negotiations and its non-recognition in representations to the Congress is curious.

One reason the Tunaboat Association may not want an official change in the U.S. law and policy is that the U.S. Government reimburses tuna vessels for losses resulting from seizures in other nations' 200-mile zones. Perhaps the U.S. Government's financial benefits under the Fisherman's Protective Act are themselves a significant deterrant to changes in U.S. tuna policy.

Another often cited reason for the U.S. policy excluding tuna is that the position allows U.S. negotiators to make a better deal with Mexico and other coastal nations in whose 200-mile zones our Southern California-based vessels want to fish. To test the validity of that rationale, we might ask for an enumeration of the concessions the policy has yielded over the past few years. It might also be instructive to ask the Mexican or Canadian Governments to list detriments they see from the U.S. position.

Mr. Chairman, I am aware that this hearing is focussed on the status of Atlantic bluefin tuna. However, I respectfully submit that U.S. problems in the Atlantic are inextricably linked to the difficulties our fisherman face in the Eastern Pacific and to our tuna opportunities in the Western Pacific. In my view, the time has arrived for the U.S. to join with the rest of the world on tuna jurisdiction. Our negative confrontation strategy on tuna is no longer working. It is not protecting Atlantic bluefin tuna in the Western Atlantic, it is not gaining negotiating concessions in the Eastern Pacific and it is precluding our participation in the tuna fishery of the future and the development of 200-mile zones in the Western Pacific. Certainly, from a scientific point of view, it is desirable to conserve and manage highly migratory species through regional organizations. But the U.S. was instrumental in altering the world's attitude toward 200-mile fishery zones and now few sovereign States can refrain from controlling all fishing activities within 200 miles of their coasts. As evidenced by the emerging regional tuna organizations in the Western Pacific, strongly held coastal State views on controlling tuna (which is the only economically viable resource of most Pacific Island nations), are not necessarily a barrier to cooperation on highly migratory species. If the U.S. would only take a balanced posture responsive to its true situation as both a coastal and distant water tuna nation, I believe we would be welcomed into both Western Pacific tuna organizations. We could thereby obtain preferential access to huge, undeveloped skipjack resources whereas other distant water fishing nations, that are not coastal States in the region, would not be similarly welcomed.

The U.S. thus has a fleeting opportunity to get in on the ground floor of an enormously important tuna fishery of the future. To move from a confrontation to a cooperation policy, we must change a 30-year old position on tuna that no longer comports with political realities in the ocean. In my opinion, it is time to stop kidding ourselves on this issue and to start work with not only our inceasingly important immediate neighbors, but also with our longstanding allies in the Pacific Islands.

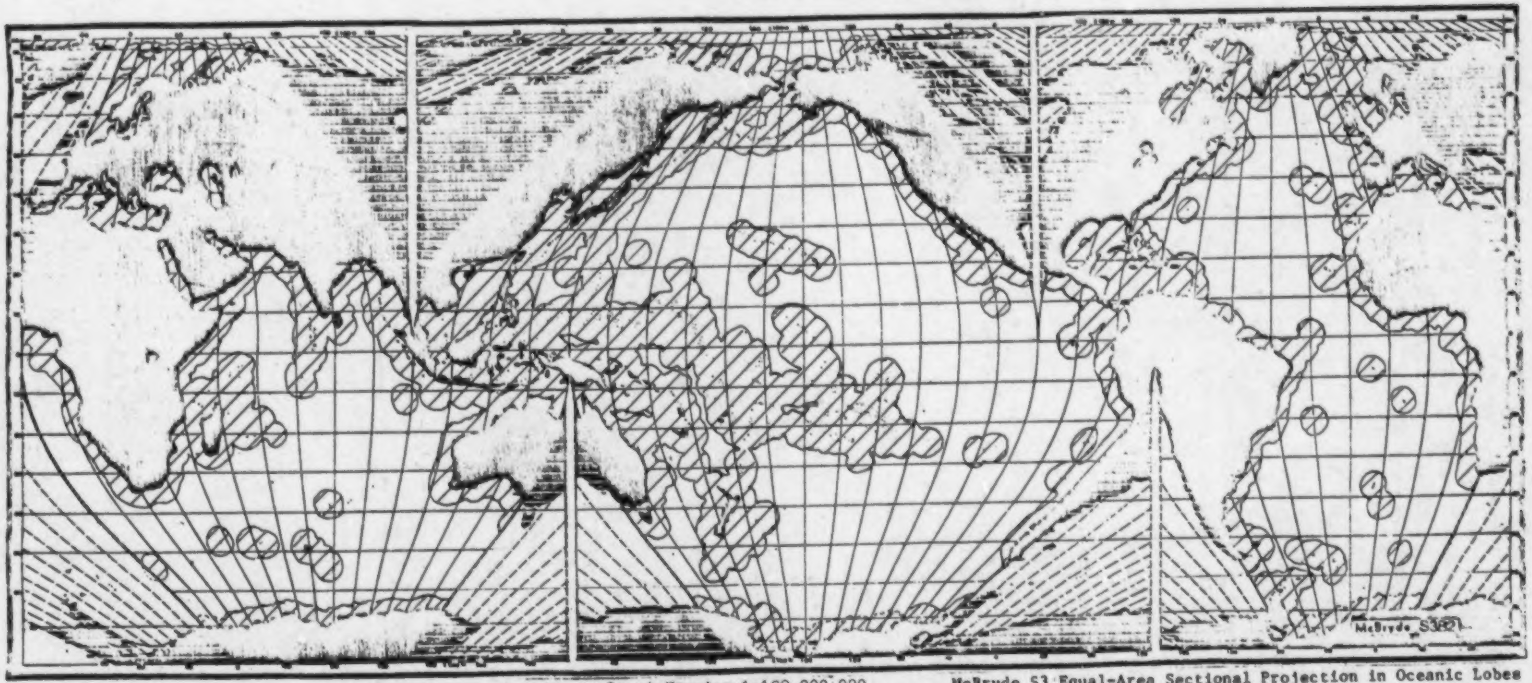
Thank you for letting me testify.

Attachments.

WORLD OCEANS AND SEAS

200-NAUTICAL-MILE ECONOMIC CLAIM ZONES (SHADED)

Source: Global Effect of 200 Nautical Mile Maritime Zone Claims
(on Mercator Projection)
Office of the Geographer, U. S. Department of State



Approx. scale at Equator 1:129,000,000

McBryde S3 Equal-Area Sectional Projection in Oceanic Lobes
(Composite Sinusoidal Homolinear)

BEST COPY AVAILABLE

November 1981, Port Moresby.

NAURU AGREEMENT CONCERNING CO-OPERATION IN THE MANAGEMENT OF FISHERIES OF COMMON INTEREST

The Federated States of Micronesia, the Republic of Kiribati, the Marshall Islands, the Republic of Nauru, the Republic of Palau, Papua New Guinea and Solomon Islands:

Taking into account the work of the Third United Nations Conference on the Law of the Sea;

Noting that in accordance with the relevant principles of international law each of the Parties has established an exclusive economic zone or fisheries zone (hereinafter respectively called "the Fisheries Zones") which may extend 200 nautical miles from the baselines from which their respective territorial seas are measured and within which they respectively and separately exercise sovereign rights for the purposes of exploring, exploiting, conserving and managing all living marine resources;

Having regard to the objectives of the South Pacific Forum Fisheries Agency Convention and in particular the promotion of regional co-operation and co-ordination of fisheries policies and the need for the urgent implementation of these objectives through regional or sub-regional arrangements;

Conscious of the exploitation of the common stocks of fish, both within the Fisheries Zones and in the waters adjacent thereto, by the distant water fishing nations;

Mindful of their dependence, as developing island states, upon the rational development and optimum utilisation of the living resources occurring within the Fisheries Zones and in particular, the common stocks of the fish therein;

Recognising that only by co-operation in the management of the Fisheries Zones may their peoples be assured of receiving the maximum benefits from such resources; and

Desirous of establishing, without prejudice to the sovereign rights of each Party, arrangements by which this may be achieved;

Have agreed as follows:

ARTICLE I

The Parties shall seek without any derogation of their respective sovereign rights, to co-ordinate and harmonise the management of fisheries with regard to common stocks within the Fisheries Zones, for the benefit of their peoples.

ARTICLE II

The Parties shall seek to establish a co-ordinated approach to the fishing of the common stocks in the Fisheries Zones by foreign fishing vessels and in particular:

(a) shall establish principles for the granting of priority to applications by fishing vessels of the Parties to fish within the Fisheries Zones over other foreign fishing vessels;

(b) shall establish, as a minimum, uniform terms and conditions under which the Parties may license foreign fishing vessels to fish within the Fisheries Zones regarding:

(i) the requirement that each foreign fishing vessel apply for and possess a license or permit;

(ii) the placement of observers on foreign fishing vessels;

(iii) the requirement that a standardized form of log book be maintained on a day-to-day basis which shall be produced at the direction of the competent authorities;

(iv) the timely reporting to the competent authorities of required information concerning the entry, exit and other movement and activities of foreign fishing vessels within the Fisheries Zones; and

(v) standardized identification of foreign fishing vessels;

(c) seek to establish other uniform terms and conditions under which the Parties may licence foreign fishing vessels to fish within the Fisheries Zones, including:

(i) the payment of an access fee, which shall be calculated in accordance with principles established by the Parties;

(ii) the requirement to supply to the competent authorities complete catch and effort data for each voyage;

(iii) the requirement to supply to the competent authorities such additional information as the Parties may determine to be necessary;

(iv) the requirement that the flag State or organisations having authority over a foreign fishing vessel take such measures as are necessary to ensure compliance by such vessel with the relevant fisheries laws of the Parties; and

(v) such other terms and conditions as the Parties may from time to time consider necessary.

The Parties shall seek to standardize their respective licensing procedures and in particular:

(a) seek to establish and adopt uniform measures and procedures relating to the licensing of foreign fishing vessels, including application formats, licensing formats and other relevant documents; and

(b) explore the possibility of establishing, without prejudice to the respective sovereign rights of the Parties, a centralised licensing system of foreign fishing vessels.

ARTICLE IV

The Parties shall seek the assistance of the South Pacific Forum Fisheries Agency in establishing procedures and administrative arrangements for the exchange and analysis of:

(a) statistical data concerning catch and effort by fishing vessels in the Fisheries Zones relating to the common stocks of fish; and

(b) information relating to vessel specifications and fleet composition.

ARTICLE V

1. The Parties shall seek the assistance of the South Pacific Forum Fisheries Agency in providing secretariat services for implementing and co-ordinating the provisions of this Agreement.

2. An annual meeting of the Parties shall be convened preceding or following the regular session of the Forum Fisheries Committee in order to promote the implementation of this Agreement. Additional meetings may be convened at the request of three or more Parties. Such requests shall be communicated to the Director of the Forum Fisheries Agency who will inform the other Parties.

3. With the concurrence of the Parties, members of the South Pacific Forum Fisheries Agency, not Parties to this Agreement, may attend, as observers, the meetings referred to in this Article.

ARTICLE VI

The Parties shall, where appropriate, co-operate and co-ordinate the monitoring and surveillance of foreign fishing activities by:

(a) arranging for the rapid exchange of information collected through national surveillance activities;

(b) exploring the feasibility of joint surveillance; and

(c) developing other appropriate measures.

ARTICLE VII

The Parties shall seek to develop co-operative and co-ordinated procedures to facilitate the enforcement of their fisheries laws and shall in particular examine the various means by which a regime of reciprocal enforcement may be established.

ARTICLE VIII

Nothing contained in this Agreement shall be construed as a derogation of any of the rights and obligations undertaken by any of the Parties under the South Pacific Forum Fisheries Agency Convention or any other international agreement in effect on the date on which this Agreement enters into force.

ARTICLE IX

The Parties shall conclude arrangements where necessary to facilitate the implementation of the terms and to attain the objectives of this Agreement. The Parties concluding such arrangements shall lodge copies with the depositary of this Agreement.

ARTICLE X

1. This Agreement shall be open for signature by the States named in the preamble hereto and shall be subject to ratification.

2. This Agreement shall enter into force thirty days following receipt by the depositary of the fifth instrument of ratification. Thereafter it shall enter into force for any signing or acceding State thirty days after receipt by the depositary of an instrument of ratification or accession.

3. This Agreement shall be deposited with the Government of Solomon Islands which shall be responsible for its registration with the United Nations.

4. Following entry into force, this Agreement shall be open for accession by other States with the concurrence of all of the Parties to this Agreement.

5. Reservations to this Agreement shall not be permitted.

ARTICLE XI

1. This Agreement is a binding international agreement concluded among States and is governed by international law.

2. Any Party may withdraw from this Agreement by giving written notice to the depositary. Withdrawal shall take effect one year after receipt of such notice.

3. Any amendments to this Agreement proposed by a Party shall only be adopted by unanimous decision of the Parties.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed the Agreement.

Done at this day of One Thousand Nine Hundred and Eighty Two.

This Agreement has been initialled on an ad referendum basis as representing a consensus as to the text contained herein.*

The Hon. FREDRICK L. RAMP,
Attorney General,
Federated States of Micronesia.

BRENDAN DALLEY,
Chief Fisheries Officer,
Republic of Kiribati.

The Hon. KESSAI NOTE,
Minister for Resources and Development,
Marshall Islands.

VICTORIO UHERBELAU,
Special Assistant to the President,
Republic of Palau.

The Hon. PAUL TORATO, M.P.,
Minister for Primary Industry,
Papua New Guinea.

*A delegate from Solomon Islands participated in the meeting but had no instructions to initial.

Delegates from Nauru were unable to attend due to prior commitments and their apologies were conveyed.

AGREEMENT BETWEEN THE MARITIME AUTHORITIES OF MICRONESIA AND THE AMERICAN TUNABOAT ASSOCIATION

The Micronesian Maritime Authority, the Palau Maritime Authority, and the Marshall Islands Maritime Authority, (hereinafter referred to as the Authorities) and the American Tunaboat Association (hereinafter referred to as the Association)

Acknowledge the exclusive fishery management authority of the Federated States of Micronesia, as set forth in Title 52 of the Trust Territory Code, as amended; the Government of Palau as set forth in Public Law 6-7-14, as amended, and the Government of the Marshall Islands as set forth in Chapter 8 of the Marshall Islands Code; and

DESIROUS of establishing reasonable and uniform conditions applicable to all vessels for the purpose of governing the operation of fisheries of mutual interest.

Have agreed as follows:

1. The Authorities shall permit fishing by member vessels of the Association within the area described in Appendix (hereinafter referred to as the Zones), except in such areas as are designated in Appendix A as closed areas, in accordance with the provisions of this Agreement and applicable law.

2. Association member vessels shall not fish in the Zones except under the terms and conditions specified in this Agreement and in accordance with applicable laws and regulations. The Administrator shall provide the Association within 30 days of

the effective date of this Agreement, copies of all such applicable laws and regulations, and changes in applicable laws and regulations within 30 days of the effective date of such changes.

3. The Administering Authority (hereinafter referred to as the Administrator) to act on behalf of the Authorities in administering the terms and conditions of this Agreement shall be the chairman of the Palau Maritime Authority, until the Authorities notify the Association of a change in Administrators.

4. Member vessels which engage in fishing in the zone must have in their possession Certificates of Access issued by the Administrator. The Association shall apply on behalf of its members for Certificates of Access on the form set forth in Appendix B. A true copy of the current Certificate of Ownership issued by the United States Coast Guard shall accompany this application and shall be accepted for the purpose of establishing the net registered tonnage of the applicant vessel.

5. The Administrator will promptly review applications for Certificates of Access, and issue Certificates valid to June 30, 1981, for the first year, and June 30, 1982 for the second year, upon the payment of fees hereinafter described. Certificates of Access issued pursuant to this Agreement, or true copies thereof, shall be prominently displayed in the wheelhouse of Association member vessels fishing in the Zones. There shall be no transfer of Certificates of Access.

6. An applicant may begin fishing within the zones upon receipt of a Certificate of Access. In order to alleviate time difficulties where necessary, the Administrator may authorize qualified vessels to begin fishing prior to having received a Certificate of Access. In such cases, the Association shall immediately cable to the Administrator.

(a) the name of vessel;
(b) the gross and net registered tonnage;
(c) the name and address of the owner;
(d) radio call sign; and
(e) current position of vessel.

Upon the determination that the vessel is qualified, the Administrator shall immediately dispatch a temprorary Certificate of Access. Prior to the receipt of a Certificate of Access or a temporary Certificate of Access, the serial number of the appropriate Certificate issued by the Administrator to a member vessel shall be sufficient evidence of said Certificate.

7. The issuance of Certificates of Access shall be contingent upon the payment of a fee of U.S. $30 per net registered ton of the applicant vessel for the first year and U.S. $40 per net registered ton for the second year. This fee (calculated as 5.5 percent weighted average of reported catch, U.S. value West Coast) takes into account the limited historical fishing experience of member vessels in the zones and recognizes the commercial risks involved in developing an expressly exploratory fishery. The Association shall be responsible for the collection and transmission of this fee to the Administrator. There will be no refund or pro-ration of these fees.

8. After written notice and consultation with the Association and the Authorities, the Administrator may take the following actions:

(a) Deny an application for a Certificate of Access to a member vessel. The reasons for such denial shall be provided in writing to the applicant, the Association and the Authorities. The Applicant shall have the opportunity to re-apply, without prejudice.

(b) Cancel and withdraw the Certificate of Access of any member vessel which has committed acts in contravention of this Agreement. The effective date of such cancellation and withdrawal shall be no earlier than ten (10) days from the date of written notification to the Authorities. The Certificate holder or the Association may appeal the Cancellation. The Association shall secure and promptly dispatch to the Administrator any such cancelled Certificate and all true copies thereof.

9. The Authorities recognize that there is presently not information indicating that the optimum yield of the resources covered by this Agreement will be adversely affected by the fishing activities of the member vessels of the Association during the term of this Agreement. In this respect, it is acknowledged by the Authorities and represented by the Association that:

(a) there are about 101 vessels in the membership of the Association;

(b) at present, six member vessels have indicated their intent to engage in an exploratory fishing program in the Central and Western Pacific;

(c) on the basis of present information, only a limited number of such membership are expected to fish in the Zone during the term of this Agreement.

10. Member vessels shall complete and transmit to the Administrator, directly or through the Association, voyage catch reports in the form set forth in Appendix C, for all fishing within the Zones. Catch reports shall be dispatched to the Administrator within 30 days of the completion of a voyage during which fishing was

conducted within the Zones. Member vessels shall provide the Administrator with catch reports of fishing within the Zones for voyages ending after January 1, 1980, if any fishing was conducted within the Zones after January 1, 1980.

11. Member vessels will maintain a current approach catch log on board the vessel, and make such log available for inspection by officers authorized by the Authorities.

12. The Authorities shall ensure the confidential character of information, records or statistics of individual member vessel catches and individual company operations.

13. Member vessels shall conduct their fishery in a manner which will not disrupt traditional, locally-based fisheries, and release all turtles and reef fish taken during the course of the purse seine fishery in a manner which will provide this miscellaneous catch with the greatest chance for survival.

14. The Authorities shall establish a uniform system of monetary fines and other penalties for violations of provisions of this Agreement as soon as practicable. In any judicial proceeding, the Authorities shall recommend penalties in accordance with the uniform system provided by this Agreement. The Administrator shall notify the Association of the nature of this uniform system. The Association shall make its best efforts to ensure payment of fines imposed pursuant to this Agreement.

15. Member vessels shall allow authorized enforcement officials to board and inspect their vessels at any time within the Zones, in accordance with international law. Arrests and seizures shall not be made unless such officer has reasonable cause to believe as a result of such search or inspection that any such vessel or any person has committed an act in violation of applicable law. Boarding and inspection shall be conducted expeditiously and with a minimum of interference with the fishing operations and a minimum risk to the vessel or crew.

16. The Association will appoint and maintain Agents in Ponape and Palau. Such agents will be authorized to receive and respond to any legal process issued by a court of competent jurisdiction.

17. The Authorities encourage member vessels to utilize the ports within the Zones, subject to the availability of facilities and supplies and the needs of the fishing vessels under the flags of the respective jurisdictions, and in accordance with the laws and regulations applicable in such ports. The authorities will use their best efforts to ensure that Association member vessels are granted the appropriate entry authorization to enter ports within the Zones, and application for a Certificate of Access shall be considered an application for a multiple entry permit in each of the jurisdictions.

18. In case of seizure of a member vessel or the arrest of its crew, the Authorities will notify the nearest available Agent of the Association of this action. The authorities will make their best efforts to ensure that a seized vessel and arrested crew members are promptly released subject to reasonable bond or other security as may be determined by the appropriate court.

19. Recognizing the limited availability of statistical information on catch and fishing effort data within the Zones, the Authorities and the Association acknowledge the value and need of an effective scientific data program. The Administrator shall propose programs that will allow authorized scientific technicians to monitor fishing activities during the term of this Agreement. The terms and conditions of such programs shall be subject to approval by the Association and the Authorities.

20. Member vessels fishing within the Zones shall maintain adequate and complete insurance including, but not necessarily limited to, collision, protection and indemnity, and oil pollution liability insurance.

21. The Association shall make its best efforts to ensure that its member vessels comply with the provisions of this Agreement and applicable law and regulations. The period of this Agreement shall be July 1, 1980 to June 30, 1982. At the request of either the Authorities of the Association, on reasonable notice, consultation shall be held with respect to any problems which may arise in the course of the implementation of this Agreement.

In witness whereof, the undersigned, being duly authorized thereto by their principals have signed this Agreement on the date and place shown.

August Felando,
President, American Tunaboat Association.
Bethwell Henry,
Chairman, Micronesian Maritime Authority.
Kuniwo Nakamura,
Chairman, Palau Maritime Authority.
Charles Domnick,
Chairman, Marshall Islands Maritime Authority.

AMENDMENT NO. 1 TO THE "AGREEMENT BETWEEN THE MARITIME AUTHORITIES OF MICRONESIA AND THE AMERICAN TUNABOAT ASSOCIATION"

The Micronesian Maritime Authority, the Palau Maritime Authority, and the Marshall Islands Maritime Authority, (hereinafter referred to as the Authorities) and the American Tunaboat Association (hereinafter referred to as the Association),

Recognizing, that the Association is desirous of extending the term of the above referenced Agreement for an additional period of six (6) months; and

Desirous of accommodating the wish of the Association to transform its Agreement with the Maritime Authorities of Micronesia to a calendar year basis,

Have agreed as follows:

1. The above referenced Agreement signed by the President of the American Tunaboat Association on September 5, 1980 and thereafter by each Authority is hereby extended for an additional period of six (6) months beginning July 1, 1982 and ending December 31, 1982.

2. The issuance of Certificates of Access for any Member vessel licensed prior to January 1, 1982 covering the period of the extension shall be contingent upon the payment of a fee of U.S. $20.00 per net registered ton for each Association vessel desiring access to the Zones during such period. New vessels seeking access to the Zones after January 1, 1982 shall pay a fee of U.S. $50.00 per net registered ton for the period beginning January 1, 1982 and ending December 31, 1982. The Administrator shall promptly review applications for Certificates of Access received from Member vessels of the Association for the period of the extension and issue Certificates valid to December 31, 1982 for qualified vessels.

3. All other terms and conditions of the above referenced Agreement shall have application during the period of extension to the same extent and in a like manner as during the original period of the Agreement.

4. The Authorities undertake to seek approval of their respective governments for this amendment in a timely manner and in any event not later than December 31, 1981. Should one or more of the Authorities fail to obtain the necessary approval of its government by December 31, 1981, the remaining approving Authorities and the Association agree to consult as soon thereafter as may be possible with a view toward concluding a bilateral or trilateral Agreement, as the case may be, on the same terms and conditions, and for the same duration and fee as provided in this amendment.

In witness whereof, the undersigned being duly authorized thereto by their respective principals have signed this Agreement on the date and place shown.

Senator **WEICKER**. I've got a question which I'll get to later.

Mr. Roger Anderson, executive director of the Gulf & South Atlantic Fisheries Development Foundation.

Mr. **ANDERSON**. Thank you, Senator.

The issue for those of us in the Southeast, at least in the commercial sector, is who will be able to harvest the bluefin tuna resource. At this point in time, we have the capability of harvesting the bluefin, a result of the development of the swordfish fishery in the Southeastern United States. The fleet currently consists of approximately 200 to 400 boats, depending upon the time of season. The problem, however, is that no directed domestic fishery for bluefin exists in our region, that is, Texas to Virginia.

This problem has arisen because the Japanese have the long lines and are scheduled to harvest 6,500 bluefin tuna in 1982. Regulations by the National Marine Fisheries Service, promulgated in 1980, dispelled any additional directed fishery by commercial interests in our region. Consequently, the only allowable domestic harvest is a by-catch of two fish per trip.

So whether or not we look at the current management regime or the full moratorium, the question that has to come to the forefront in the Southeast, where the bluefin tuna reside and where an established breeding population exists, is who will, in the short-term, and who will, in the long-term, be able to harvest the stock? We estimate that if the stock were made available to U.S. interests, it would mean approximately $40 million in added income to our region.

When you look at the problems of our shrimp fisheries, and recognize that one of the most immediate alternatives to the large shrimp vessels is the longline fishery, for which bluefin would obviously be a very attractive item, you recognize that our interest is simply the opportunity to harvest the resource that occurs in our jurisdictional area. The issue, as we see it, is indeed both short-term and long-term. Further, we recognize the conservation interests, applaud them and recognize the allocation that might be set forth between recreational and commercial users.

Lastly, I bring to your attention that in our area, we have member States that are not, apparently, at this time, participating in ICCAT. The one that is most prominent, of course, is Mexico. The Mexicans have made no apparent commitment to comply with the ICCAT regulations. As a result we semse a situation in which the United States may be applauded for its conservation efforts, and at the same time simply make the stocks available for the Mexican longline fishery. Indeed the Mexicans are constructing a longline fleet. Additionally, there are other neighbors in Central and South America who have existing or potential longline capabilities.

So the question before the House is, If we are to participate in a long-term or short-term conservation practice, will or will not the American harvester have access to the resource? If we are continually denied access, as occurs at the present time, and we share some real concerns about the moratorium because we have to define the nature of the plan, we may just be creating a short-term conservation situation in which the long-term stocks are being allocated to foreign interests.

Thank you.

[The statement follows:]

Statement of Roger D. Anderson, Executive Director, Gulf & South Atlantic Fisheries Development Foundations, Inc.

My name is Roger Anderson. I serve as the Executive Director of the Gulf and South Atlantic Fisheries Development Foundation, Inc., a non-profit research and development corporation located in Tampa, Florida. The Foundation is governed by a board of trustees, representing the major commercial fisheries trade associations of the region, and is constituted by boat builders, marine suppliers, fishermen, processors and marketing organizations from throughout the Southeastern United States.

The Foundation's members recognize the need to wisely conserve marine resources within the nation's estuarine, coastal and offshore waters. At the same time, we are committed to the orderly economic developments of the region's commercial fishing sector. Unfortunately, the region's traditional fisheries, particularly shrimp, are no longer able to provide the historic strength of the industry. Rising fuel prices, market conditions, etc. have contributed to the squeeze on profits. Perhaps most heavily impacted have been the larger shrimp vessels which once participated in distant water fisheries. Rather than remain idle, however, many of these operators, and others, have diversified, with longlining one of the most attractive alternatives.

Initially, conversions focused on a directed fishery for swordfish. Incidental catches of Atlantic bluefin tuna, with their high ex-vessel prices, encouraged expanded interests. By 1980, well over 200 longline vessels had acquired Atlantic bluefin tuna permits. Estimates of up to 500 vessels entering the fishery by 1982 were forecast. The National Marine Fisheries Service (NMFS), concerned that the resource was not strong enough to withstand additional fishing pressure, and that the development of a new bluefin fishery was contrary to ICCAT commitments, announced regulations in 1980 to limit direct harvesting. An incidental harvest of two bluefin per trip was proposed, though the Japanese were allowed to continue their directed efforts in the Gulf of Mexico.

As a result, there is no domestic bluefin tuna fishery in the Southeast, though stocks occur in many of the areas fished for swordfish. As noted, a foreign nation continues their directed efforts, particularly in the Northern Gulf. Additionally, it should be noted that the current NMFS regulations, though written as a conservation measure, appear discriminatory, particularly on a regional basis. Indeed, while our government is now prepared to prosecute domestic fishermen for illegally landing bluefin, we willingly permit foreign harvest amidst gear conflict confrontations, billfish by-catch problems and harvesting of other commercially valuable species. To the commercial fishing industry of our region, the scheme is unacceptable.

To further complicate the matter, we note that other nations, including our southern neighbors, have not recognized the International Commission for the Conservation of Atlantic Tuna (ICCAT). As a result, Caribbean and Central American countries are free to fish within their jurisdictions. To the American fishermen, this is another stinging blow. Afterall, when Mexico phased out U.S. shrimpers, the problems of our domestic industry quickly compounded. Additional actions by the Mexican government have not been encouraging. At least one major trade agreement, and the scheduled phase-out of snapper-grouper fishing in Mexican waters, have not gone unnoticed. In these instances, our State Department has apparently been unable to intercede because of the U.S. position on, or relationship with Mexico, on tuna.

If conservation of the bluefin tuna is the central issue, so be it. Our laws might best deal with this matter in concert with an international regime, not apart from the matter. Indeed, our history with international fishing agreements has been dotted with anomalies. The failure of such historical entities as the International Commission on North Atlantic Fisheries (ICNAF), were instrumental in generating passage of the Fishery Conservation and Management Act (FCMA). This same situation may apply in reviewing the need for legislative action as proposed under the American Tuna Protection Act.

In summary, the commercial fishing industry of the Southeast supports the wise and careful management of tuna, as well as all fish stocks. We are not convinced, however, that tuna can be successfully managed as an international entity outside U.S. law. In the Southeast, the commercial harvesting of tuna, as a domestic resource, would mean as much as 40 million dollars per year to the region's economy. This does not include the value added via recreational participants. This would be an immediate means of assisting those sectors of the industry currently crippled by problems within the nation's most valuable fishery, i.e. shrimp. It would also mean the elimination of foreign fishing, thus resolving gear conflict and by-catch issues.

Lastly, please know that the commercial fishing industry in the Southeast is sensitive to the problems of tuna management on an international basis. Further, we are aware of the potential problems in making any jurisdictional changes. However, remedies to assist our industry have, to date, been confining, restrictive and perhaps, in the case of Mexican relations with East and Gulf Coast fishing interests, further damaging. With the construction of a Mexican longlining fleet, new competition is inevitable. Failure to get adequate observer coverage on the Japanese vessels means a host of continued, but unanswered, questions. To a beleaguered industry, struggling to diversify and compete, it is difficult to understand the current position of the United States. The problem will not get better, and thus I command your attention to any and all remedies that will allow the domestic user, both recreational and commercial, prudent access to the tuna resources adjacent to our coastline.

Senator Weicker. Thank you very much, Mr. Anderson.

Next we have Mr. Alan Macnow, public relations counsel for the Japan Fisheries Association.

Mr. Macnow. Thank you, Mr. Chairman. We represent the Japan Tuna Association as well as the Japan Fisheries Association, and we tried to get somebody from Japan to come over for this hearing. Unfortunately it was very difficult for anyone to make the trip this time, so I will try to answer whatever questions you have.

I would like also to tell you a little bit about their position. The Japanese have been pretty well vilified over the past few years by interests in the United States who would like to see Japanese fishing in these waters stopped and the Japanese expelled from the area. You've heard a great deal involving how the Japanese are making an enormous impact on U.S. catches by catching so many sailfish, so many swordfish. But when you look at the numbers and look at the evidence, I think you'll find that the numbers are fairly small and the evidence very scanty that the Japanese tuna long liners have had very much effect at all on either American sports fishermen seeking marlin and sailfish or upon the American commercial fishermen seeking bluefin tuna and swordfish.

In point of fact, the incidental catch of marlin and sailfish in 1980 resulting from the Japanese tuna industry was just about 1,000 marlin and sailfish. The U.S. fisherman gets something like 79,000 marlin and sailfish annually. That 1,000 by the Japanese out of 79,000 caught by Americans—it's a very small amount.

If the Japanese were expelled from the area this may give American sports fishermen the opportunity to catch maybe another 1 marlin or sailfish out of every 80 tries or more. Yet what's at stake in this is very great. I think you've heard from the Government that highly migratory species cannot be managed by a single nation acting by itself. I think you're going to hear from the American tuna industry about the importance to their industry of their ability to gain access to fish resources in other countries. I think you know the enormity of the economics involved in the tuna fishing industry, $1½ billion, millions of dollars tied up in large American tuna fishing boats, thousands of employees in California and Puerto Rico who depend upon America's access to tuna in foreign countries. I don't think I have to go through those numbers.

I do want to tell you that the Japanese have made, since 1977, a very substantial effort to accommodate American fishermen. They have reduced their catch of bluefin tuna in the Gulf of Mexico from 10,000 fish in 1978 to 7,000 this year. Next year they were going to reduce it to 6,500. But apparently there won't be a catch next year.

The Japanese tuna longliners have agreed to fish next year, if there is any fishing, in certain windows off the Atlantic Coast where there will be less chance of having conflicts with American fishermen. When they have had conflicts with American fishing gear, they tried very hard to establish a communications system between American and Japanese vessels. They've made efforts to withdraw from the areas where American fishermen are fishing. They've done everything in their power to accommodate the American fisherman and give the American fisherman as much access to the fish as possible, and they intend to continue to do so.

I have a lot of statistics, but again, basically I think you're going to find, if you look at the statistics, that there is no evidence that the Japanese have impaired the fishing of American fishermen or have impaired the ability of American fishermen to obtain any resource which he was entitled to.

And I think the United States, as we all know, is a large and powerful country. It has all the resources, including the State Department, to enforce its will upon foreign countries. It had the ability to come up with its own scientific analysis at ICCAT and then to get other countries in ICCAT to accept the American science. The United States is pretty well able to take care of its interests, even without putting tuna under U.S. jurisdiction within the 200-mile zone.

Thank you, Senator.

[The statement follows:]

STATEMENT OF ALAN MACNOW, TELE-PRESS ASSOCIATES, INC., PUBLIC RELATIONS COUNSEL TO THE JAPAN FISHERIES ASSOCIATION

Mr. Chairman and members of the Committee:

My name is Alan Macnow. I am president of Tele-Press Associates, Inc., of New York, and consultant to the Japan Fisheries Association.

I would like to thank you, Mr. Chairman, and the members of the National Ocean Policy Subcommittee for permitting me to testify here for my clients. We are very grateful that Congress recognizes the critical national and international consequences of United States fishery policy, and is attempting to find a balance between regional fisheries needs and the needs of the nation in both domestic and foreign affairs.

In considering Senator Weicker's bill, S-1564, and the proposed amendments to the Magnuson Fisheries Conservation and Management Act (MFCMA), embodies in S-1668, this Committee will find, I believe, that both the nation's domestic welfare and international relations may be undermined by the proposed legislation. If S-1564 should be passed into law, for example, millions of Americans who depend upon tuna for their low-cost daily protein requirements may lose this greatly needed food resource. The United States also may lose one of its largest and most modern fishing industries, the mighty tuna seiner fleet which operates off of the coasts of other nations from the Atlantic to the far western Pacific.

Proponents of S-1564 appear unconcerned about the consequences of their position. In addition to their indifference to consumer dependence upon canned tuna and the fate of the U.S. tuna industry, they would saddle the nation with an additional fisheries trade deficit of almost half a billion dollars, just to increase their take of Atlantic bluefin tuna by a few thousand tons and add a few thousand more billfish to their catch. Ironically, most Americans do not even eat giant bluefin tunas, marlins or sailfish, and their catch of billfish already is substantially higer than that of any other north Atlantic nation.

As for S-1668, much of which is proposed to speed up the fisheries management process, this bill, too, contains provisions which can only serve parochial interests while disadvantaging most other Americans and impairing the national interest.

When Congress, in its wisdom, and after long years of truly national debate passed the Fishery Conservation and Management Act in 1976, it established a carefully thought-out foundation of checks and balances so that regional, national and international interests would be meticulously considered in the development of fishery management plans. Congress perceived that the parochial interests of regional management councils, entities composed in large part of members of the fishery industry who would be regulated by regulations they themselves would fashion for the management of national resources, might operate to accrue local benefits from the national resources at the expense of other national interests. As a result, the Secretaries of Commerce and State were given firm oversight responsibilities.

Unfortunately, some provisions of S-1668 would destroy that foundation of checks and balances by greatly diluting the role of the Commerce and State Departments, and by stripping the public of some of its rights to participate in the development of fisheries management plans which affect them.

S-1668 also contains within it a provisionto strip the MFCMA of its most important underlying concept: That renewable marine resources available to be utilized should be utilized to the fullest extent possible and should not be wasted. This concept protects American consumers from schemes which would rig prices by manipulating catch quotas so as to create shortages. Additionally, this provision, which would amend National Standard 1 of the MFCMA so that the achievement of optimum yield from a fishery is not required, will enable regional fishery management councils to prevent foreign fishermen from utilizing fish surplus to U.S. requirements, and which otherwise would be wasted.

Last year there were xenophobic efforts to phase foreign fishermen out of the Fishery Management Zone in five years. This year, the provision to amend National Standard 1 could lead to immediate expulsion of foreign fishermen, without regard to the severe consequences to U.S. foreign affairs or to the United States' reputation for upholding fairness, justice, and treaty obligations. By destroying the principle which National Standard 1 upholds, S-1668 will tell the world that the United States has no intention of honoring the international obligation to achieve full utilization of available marine food resources.

I trust that the Committee will scrutinize both pieces of proposed legislation and conclude that S-1564 will not serve the best interests of the United States, while S-1668 needs careful revision.

Now, if I may, I would like to comment upon some of the misleading and false information propagated in support of S-1564.

The virulent campaign to place tuna under United States authority in the 200-mile Fishery Conservation Zone seeks to subvert scientific principles to xenophobia and greed. Scientists around the world repeatedly have stated in no uncertain terms that no highly migratory fish—including tunas and billfish—can possibly be conserved by a single coastal nation acting alone. Only the high-powered lobbying of wealthy and influential sports fishermen succeeded in placing billfish under U.S. management authority through a last-minute amendment to the FCMA. This action, incidentally, was so contrary to scientific knowledge, that both the Caribbean and Pacific Fishery Management Councils have refused to develop fishery management plans for billfish.

Japan fishes for highly migratory species of tuna within the 200-mile zone of the United States, just as the United States fishermen fish for tuna off the coasts of Africa, Central and South America, and the countries of the western Pacific. Japanese fishermen off the coasts of the United States are required to buy permits from the United States government, must pay money into a fund for reimbursement for vessel and gear losses sustained by U.S. fishermen, and are required to have U.S. observers on board. U.S. fishermen in the waters of other nations are not required to pay into a vessel or gear damage fund, nor are they required to have foreign observers on board.

In regard to Atlantic bluefin tunas, Japanese fishermen fish under both catch and effort restrictions. Their government has not permitted them to increase fishing effort or catch above 1974/75 levels. U.S. fishermen seeking Atlantic bluefin tunas can catch them without limits and without permits, providing they are tagged and released. The U.S. government requires permits for the retention of bluefin tunas, and had limits on weekly catch, but has not acted to limit or restrain the growth in the number of U.S. fishermen seeking bluefins, which has doubled in recent years.

Japan's impact upon the Atlantic bluefin tuna stocks is at worst highly debatable. Some of the numbers being thrown about by the proponents of S-1564 are patently false and simply absurd. In recent years, Japan's catch of bluefin tuna in the entire Atlantic has ranged around its quota of 4,500 metric tons, not 9,000 metric tons as has been alleged in anti-Japanese propaganda. Japan's catch of giant bluefin tuna in the Gulf of Mexico FCZ was around 10,000 in 1978 and has been reduced progressively through voluntary agreements to the 7,000 fish level this year. Incidentally, for years scientists have repeatedly stated that the low recruitment condition of Atlantic bluefin tuna stocks was due to the overfishing of small school tuna by American fishermen, not to the catch of giant bluefins by the Japanese.

Another fact: Japan's catch of Atlantic bluefin tuna amounts to only about 20 percent of the total annual catch by all nations, so it is absurd to hold Japan responsible for the condition of the stock.

As for the allegation that Japanese fishermen in 1980 caught large numbers of the 1973-year-class which U.S. scientists hoped would rebuild the fishery, this too is without foundation. Japanese fishermen caught only 1,625 fish of this class in their 1979/80 fishing season, and only 2,060 in the 1980/81 fishing season.

By way of contrast, while Japanese tuna fishermen fish across the entire Atlantic and catch about twice as much in tonnage than do Americans fishing close to shore, U.S. fishermen catch from 45,000 to 50,000 bluefin tunas per year from their Atlantic and Gulf coasts in comparison to some 15,000 to 18,000 bluefins which the Japanese catch in the FCZ.

Japan also is greatly outfished in the FCZ by Americans for other species of tuna. In 1979, for example, the Japanese longliners fishing in the Atlantic and Gulf FCZ caught a total of 59,294 tunas of all types. An estimate by the State of New Jersey's Marine Fishery Administrator places the U.S. catch off his state alone at about 76,000 tunas, much more than the entire Japanese catch in the entire FCZ.

The Japanese tuna fishermen's impact on the U.S. catch of billfish also is negligible. There is not a shred of evidence to show that it has impaired U.S. catches or depleted any of the stocks.

In 1980, for example, the mortality of marlins and sailfish due to their incidental catch by Japanese longliners numbered only 986 in the entire Atlantic and Gulf FCZ. U.S. sportsfishermen, by comparison, catch around 79,000 annually. If the Japanese were excluded from the FCZ, therefore, the chances of American sportsfishermen adding another fish to their annual catch would be only about one out of 80. However, even this would not be sure, as the Japanese would then be forced to fish outside of the FCZ, where no regulations would require them to release all of the billfish caught incidentally to tuna. Before coming under U.S. regulations, they took over 9,000 billfish annually from the FCZ.

In support of the fact that Japanese tuna longliners have no perceptible effect on the U.S. catch of marlins and sailfish, U.S. government statistics submitted to ICCAT show an increase in the U.S. catch of these fish of more than 300 percent between 1976 and 1978, years in which Japan increased its tuna fishing catches in the Gulf of Mexico. Despite this heavy fishing pressure by U.S. sports fishermen which has resulted in a higher catch of marlins and sailfish by Americans than by any other country fishing the northern Atlantic, a few months ago the NMFS Panama City Laboratory reported that there was an apparent increase in white marlin abundance in the Gulf last year, and an apparent increase in blue marlin abundance this year.

As for swordfish, which has recently attracted hordes of American fishermen to the highly profitable fishery, there is no evidence there either that Japanese fishermen have adversely affected the U.S. catch. In fact, the U.S. catch increased from 1,429 metric tons in 1976 to a very conservatively estimated 3,405 metric tons in 1979. The Japanese swordfish catch in the entire Atlantic in 1979 totalled only 971 metric tons!

Within the FCZ, the mortality of swordfish caused by Japanese incidental catch in 1980 was only 2,761 fish, less than 3 percent of the most conservative estimate of the numbers of swordfish caught annually by Americans.

There have been problems arising out of the fact that the number of American longliners fishing for swordfish have increased rapidly in recent years. This sharp and rapid increase in the number of U.S. longliners has led to gear conflicts with Japanese fishermen. However, the Japanese have made substantial efforts to reduce such gear conflicts through establishment of a better communications system between U.S. and Japanese vessels and avoidance of U.S. vessels. This year, for example, there were only two reported gear conflicts in the Gulf of Mexico, compared to over 40 last year.

For next year, the Japanese tuna fishermen have agreed to fish in "windows" in the Atlantic FCZ which were specified by the regional fishery management councils in negotiations with the Japanese last August. The regional councils apparently feel that these designated windows will be free of American fishermen and gear.

Japan has cooperated closely with the United States and has taken every action agreed upon in negotiations with the regional fishery management councils and the U.S. State Department. Representatives of the Japanese have made frequent trips to the United States to confer with U.S. fishermen and seek ways to accommodate them. They have compensated U.S. fishermen promptly for any damage done to their vessels or gear and have adopted all of the measures requested of them by the American fishermen. The tuna industry, in fact, was commended by the Gulf of Mexico Fishery Management Council for its spirit of cooperation and strict adherence to its voluntary agreements.

In view of the fact that Japan's tuna fishermen have had no perceptible effect on U.S. catches of tunas or billfish, and in view of the fact that the Japanese have made and are making every effort to accommodate U.S. fishermen, there is no reason to seek their ouster or place them under more restrictive U.S. regulations. To do so, we believe, would be to invite similar actions to be levied upon U.S. fishermen who depend upon fishing off of the coasts of other countries.

Add to this the fact that tunas cannot be effectively conserved or managed by any one coastal nation acting alone, and I think you will reasonably conclude that there is no need nor justification for amending the MFCMA to place tuna under the management of regional fishery management councils.

Thank you for letting me testify at this hearing. If you have any questions, I shall be glad to try to answer them.

Senator WEICKER. Let me just say something, having read this statement, which is a great piece of public relations on behalf of your clients. As far as the descriptive language, I, as one of the sponsors of the bill, would take rather strong exception to it. "The virulent campaign to place tuna under U.S. authority in the 200-mile Fishery Conservation Zone seeks to subvert scientific principles to xenophobia and greed. Scientists around the world have stated in no uncertain terms that no highly migratory fish, including tunas and billfish, can possibly be conserved by a single coastal nation acting alone."

That's all very well and good. But I received testimony that I believe is accurate from Mr. William Gordon in which he reviewed the ICCAT vote. This proposal was approved with 11 members of the Commission voting affirmatively—Canada, Cuba, France, Ghana, Ivory Coast, Morocco, Portugal, Senegal, South Africa, Spain, and the United States, three abstaining—Brazil, Cape Verde, and Korea—and one voting in opposition—Japan. You don't want to be placed under any limitation by anybody do you?

Mr. MACNOW. That is not necessarily true.

Senator WEICKER. That's the vote, isn't it? So it's not just a question of the United States extending its jurisdiction over tuna to 200 miles. Your clients don't want any restriction. You vote against everything.

So don't come in here, in other words, and start to accuse people of being in the pocket of sports fishermen and all the rest. This is a lot of crap, Mr. Macnow.

I've never met any representative of sports fishing groups. Some of us are interested in true conservation of some highly endangered species of fish, which mean a great deal to a great many people, and I haven't seen any evidence by your clients that you're willing to cooperate in any way.

I'm delighted that our State Department is working with you, and there's obviously a balance of arguments to be sought between those positions presented by the State Department and the National Marine Fisheries Service and those of the groups in opposition. But I must confess, this statement on behalf of the Japan Fisheries Association infuriates me.

Mr. MACNOW. I'm sorry, Senator, but the campaign to which I referred is not yours.

Senator WEICKER. Well, whose is it? I wrote the bill.

Mr. MACNOW. It's a campaign by a group called ATAC, the American Tuna Action Committee, which has been engaged in a great deal of propaganda which to us seems outrageous. They're saying the Japanese are taking 9,000 tons of billfish every year—I'm sorry, 9,000 tons of bluefin tuna from the Atlantic, when it's obvious they don't take 4,500. Last year they took 3,200. The numbers being thrown about by this group have incited a great deal of anger in me.

I won't speak for my clients in this. But this is where the phrase is directed—at ATAC. This is to whom the phrase is directed.

As for the Japanese in ICCAT voting against this proposal, the Japanese are the only ones who are affected by this proposal among all those countries who had representation there. This is a very serious step—to stop all Japanese fishing for bluefin tuna immediately with no tapering down. This was based upon a scientific study that was done by one scientist. There was no time at ICCAT to review thoroughly all the data that went into it. And I think it's quite natural for the Japanese to say, Let's wait awhile; let's get a chance to review the scientific study—there's a great deal at stake here—before taking action which would immediately close down the fisheries. That was the Japanese point of view.

Senator **Weicker**. According to the testimony, you're closing down some of our fisheries. I'm not in a position to make that judgment, but if, indeed, you don't believe that the bluefin should come under the 200-mile limit, you were given an opportunity to vote for an alternative at the ICCAT meeting. When I say "you", I'm talking about your clients. You chose not to avail yourself of that opportunity.

Mr. **Macnow**. Senator, as far as I know, there was no opportunity to vote for any other alternative. That was the only position presented there at ICCAT. I think my clients ——

Senator **Weicker**. You don't want to cooperate with the ICCAT. You don't want the 200-mile limit. What is it that the Japanese want?

Mr. **Macnow**. The Japanese are very conscious of the science; they are conscious of the conservation. What they wanted to do at that point was to be given a chance for their scientists and other scientists from other nations to study the report that was put out by an American scientist, and see if all of the data were correct before making a precipitous vote like that.

Under ICCAT regulations, under the rules of procedure, a proposal of this type is supposed to be introduced at least 60 days before the meeting convened, so that everyone could have a chance to review the data going into it. This was not done.

After making the proposal, there is supposed to be another 6-month period before the proposal goes into effect. This, again, gives people time to review the facts. This was not done.

The American data were introduced, and the American delegation worked very hard to get all the other nations to accept it immediately. This was done, of course, by more or less guaranteeing the Europeans that there would be no effect on their stocks in the eastern Atlantic and that furthermore there could not be an additional fishing effort on the Atlantic fishing stocks, so they knew the Japanese wouldn't divert their effort from this side to the other side.

The Japanese had the only ox which was gored.

Senator **Weicker**. I don't think that many American fishermen would attest to that statement.

Mr. **Macnow**. There were no representatives of the east coast fishing industry there in the American delegation.

Senator **Weicker**. I think I understand from your statement what Japan wants. They want unilateral determination.

Mr. **Macnow**. No, sir.

Senator **Weicker**. The very thing that you don't want the United States to do you want for Japan.

Mr. **Macnow**. They intend to follow it.

Senator **Weicker**. You can't have it both ways, Mr. Macnow.

Mr. **Macnow**. Senator, they're a member of ICCAT, and they intended to follow ICCAT's determination. Just because they don't agree with it——

Senator **Weicker**. All right. I didn't mean to interrupt the next witness, but I must confess that I consider the statement you submitted to be quite irresponsible.

Mr. **Macnow**. I apologize for that, Senator.

Senator WEICKER. We now have Mr. David Burney, General Counsel of the U.S. Tuna Foundation.

Mr. BURNEY. Thank you, Senator.

If I might, because we've never appeared before the National Ocean Policy Study, I'd like to just tell you who I represent.

The U.S. Tuna Foundation is comprised of the tuna processors, the labor unions, cannery workers, crewmembers, and boatowners that make up the U.S. tuna industry. This involves some 700 vessels, not just purse-seine boats but also bait boats and trollers operating out of Oregon, California, Hawaii, Washington, and Alaska. We also have operations in Puerto Rico, American Samoa, and other areas around the world.

We are very concerned with conservation, obviously. Without conservation and without a resource, there is no tuna industry. A great deal of discussion has been made about access. Access only becomes important after you've assured conservation of the resource. I don't think anybody can point to the tuna industry over the years and its involvement in both the Inter-American Tropical Tuna Commission and ICCAT, and say that they've been irresponsible with reference to conservation.

I would like to put things in a little better perspective for this hearing. We're talking about tuna; we're talking about bluefin. There's also yellowfin or skipjack. There's bigeye; there's a variety of tunas. I think sometime we focus our attention too much on bluefin, and we forget there are other valuable species of tunas.

It's important to note that 92 percent of the production of tuna in the United States comes out of the Pacific Ocean, not the Atlantic. Of the 8 percent that comes out of the Atlantic Ocean, 82.1 percent of that 8 percent is taken in the eastern Atlantic, not the western Atlantic where our waters are located.

Also, when we talk about species of tuna in order of production in the United States, bluefin is fifth, following yellowfin, skipjack, albacore, and bigeye. That's not to demean the value of bluefin. We recognize—we sympathize with what the east coast fishermen have gone through. We've tried to work with them. We've tried to work through management plans. We've tried to work and be of assistance to the State Department on voluntary measures that the Japanese would agree to, because we recognize it as a very serious problem.

I think we've responded through ICCAT, through our advisers to ICCAT, in making an effort to assure that whatever the best scientific evidence presented, it is followed. I think we were responsible in Tenerife, at in the last ICCAT meeting when the recommendations of the Scientific Committee were followed by this Nation and many of the other nations.

There are a couple of things, though, that I think have to be addressed at this type of a hearing. No. 1, the idea that you can unilaterally manage tuna resources, I don't believe that even the people that propose such a statement honestly believe it. I think they recognize that these highly migratory resources pass through our zone, pass through the zones of many nations, and all it takes is for one nation to say, "I'm not going to follow what the United States has done," and they can eliminate that resource.

We face that prospect in our fishing the eastern tropical Pacific where we are at war with Mexico. Mexico has announced they're going to put the tuna industry out of business in this country. They said they're going to increase their harvesting capacity to such a degree that they'll be able to harvest one-third of the world's resources by 1983. It puts us in a very difficult position.

It has nothing to do with access, because Mexico cannot harvest that much resource in their waters alone. They've got to send their massive fleet, if they ever construct it, all over the world if they want that much of the resource. They recognize the need to fish in other zones. They recognize the need to fish in international waters. We recognized that from the day we had a distant-water fleet. It became a distant-water purse-seine fleet over the years.

I think the argument that Mr. Weld has made, that he thinks we can unilaterally manage bluefin tuna—again, we're going back to one species of tuna and saying, in this man's opinion, it can be managed unilaterally. I'm not sure it can be. In fact, I doubt it very much. And I think if you would take unilateral jurisdiction over the bluefin and have no control over the bluefin outside of our zone, you'd find that that stock would be devastated.

I think the action that's recently been taken by ICCAT is a step in restoring that stock. It's very necessary. I've told your staff that we would support a complete moratorium on the taking of bluefin within the 200-mile zone of the United States if you think it would be beneficial. Then the hue and cry would go up that the fishermen inside our zone have no fish, have no resources. I don't think they'd ever agree to it.

We would certainly support it, if that's what you want. Also statements that are always made—"Why doesn't the United States get in step with the rest of the world?" This is ludicrous.

I ask anyone that proposes such a thing to name one country that has a meaningful conservation program for tuna that's taken unilateral jurisdiction. Taking jurisdiction means nothing.

Having a management or conservation program is what we're all interested in. Sure these nations take jurisdiction because they want a dollar for the resource if anybody's going to come into their waters and take it out. But they're not involved in any conservation program. They have no meaningful conservation measures inside their zone.

Even Mexico has recognized the fact that they can't unilaterally conserve or manage the resource. We're arguing with Mexico over allocation. That's all we're arguing. We've never argued with them over the merit of unilateral versus international cooperation in the management of a highly migratory resource.

The idea that our juridical position has precluded us from having relationships with other nations is again just as idiotic. Reference was made to Canada. As you know, the Senate just ratified a treaty with Canada over albacore. Lou Wright is here, who represents over 600 vessels that were very involved in that treaty. I think he can tell you, if the United States did not have the current juridical position and the threat of the embargo, that treaty would have been very difficult to conclude. The treaty is going to have a meaningful result in terms of conservation of the resource in that area and has given access to our vessels that desperately needed the access.

Also, I think Mr. Anderson brought up the fact that what they want to do is harvest the bluefin resource, and they're a little worried about Mexico, who is not involved in ICCAT. We have provisions such as the Pelly amendment to take that into consideration. If these nations will not be involved on a meaningful scale in terms of conservation measures that have been adopted by the United States, we have a way of bringing them into the fold. That's what we're trying to do through the Fisherman's Protective Act and the embargo provision.

I want to conclude by saying, yes, we're concerned about access, but the No. 1 concern we have as an industry, the No. 1 concern, is conservation. Without it, we have nothing.

[The statement follows:]

STATEMENT OF DAVID G. BURNEY, COUNSEL, U.S. TUNA FOUNDATION

Mr. Chairman, on behalf of the United States tuna industry located in Puerto Rico, California, American Samoa and Hawaii, I appreciate the opportunity to testify here today on the status of Atlantic bluefin tuna stocks.

While the U.S. tuna industry is not dependent on Atlantic bluefin tuna stocks for its marketed product, it is concerned with the conservation of all highly migratory tunas and with the management of those stocks where it has been shown to be necessary. To this end when the evidence was clear, the industry supported the scientific findings of those organizations charged with the responsibility of monitoring the status of the various tuna species found in most of the world. Representatives from all elements of the industry serve as advisors to both the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Thirty-three years ago, members of the U.S. industry, then largely centered in California, worked with the United States government in the formation of the Inter-American Tropical Tuna Commission (IATTC) which began its work in 1950. Today that industry operates principally from Puerto Rico, California, American Samoa, Hawaii and New England.

Again with members of the tuna industry working with representatives of the United States, the International Commission for the Conservation of Atlantic Tunas was formed in 1969. Today the domestic tuna processors in Puerto Rico are the purchasers of the largest volume of Atlantic tunas.

The industry has worked in developing and is vitally interested in maintaining the scientific capacility of these organizations. The future of the U.S. tuna fishery as well as those of other nations will increasingly depend on this capability as world catching capacity increases.

Congress was also cognizant of the need to ensure international cooperation in the management and conservation of tunas when it passed the Fishery Conservation and Management Act (FCMA) in 1976. In excepting tunas from fishery conservation zone (FCZ) management, Congress gave recognition to the fact that highly migratory tunas cannot be effectively conserved or managed on a unilateral basis. Since tunas migrate through the jurisdictions of many nations during their life cycle, Congress correctly determined that international management was necessary.

With regard to bluefin tuna, the United States is a member of ICCAT which has developed methods for assessing the status of Atlantic tunas including bluefin. U.S. scientists in concert with scientists from other ICCAT member nations, including Italy which is not an ICCAT member, make up the ICCAT Standing Committee on Research and Statistics (SCRS). This Commission annually reviews the status of each of the Atlantic tunas separately. The action of the Commissioners from the member nations of ICCAT is largely dependent upon the reports and advice of the SCRS.

At the recently concluded ICCAT meeting held in Tenerife, Canary Islands, the SCRS startled the Atlantic tuna fishing nations by recommending that the harvest of bluefin tuna in the western Atlantic be immediately reduced to a minimum level.

The SCRS recommendation was adopted by the ICCAT Commissioners. The principal harvesters of bluefin tuna in the western Atlantic (Japan, Canada and the

United States) were directed to commence discussions to allocate an 800-ton annual quota for 1982 and 1983.

Effective management of bluefin tuna in the Atlantic requires international cooperation. The action taken by ICCAT at Tenerife demonstrates that international cooperation is not only necessary but that it is also possible.

This concludes my written testimony and I would be most happy to respond to any questions the Policy Study may have.

Senator WEICKER. Well, let me ask this question.

I believe testimony was given earlier that 90 nations include tuna in their jurisdiction, but only the United States, Japan, and Spain do not do so. How do you respond to that—in a general way?

Mr. BURNEY. My response is, nobody has contributed more to the conservation of tuna than the United States. They've done that with the recognition that there has to be international cooperation.

I would say out of those 90 nations, if you sit down with them and try to conjure up conservation regimes, you'll find out that they're not even interested. They've never done stock assessment. They haven't got the slightest idea of anything to do with the science of tunas.

Out of those nations that have contributed, such as Japan, which has, through the platforms and giving us the data which is necessary through ICCAT to make some sort of determination on the status of the stocks, still nobody has contributed any more than the United States. We've done that because we've been willing to bite the bullet and say, "Listen, let's not be hypocritical. There is no way to manage these resources on a unilateral basis. We need international cooperation."

Just taking jurisdiction doesn't guarantee you management or conservation.

Senator WEICKER. Let me ask Mr. Nordquist a question.

Why do you equate the situation in the South Pacific with the situation in the western Atlantic?

Mr. NORDQUIST. Senator, I think that the U.S. position is dictated by the Pacific. I don't think you'd have the problems you have in the Atlantic if we didn't perceive our interests in the Pacific as we perceive them.

My concern is that it's all good and well to talk about having a corner on the market on conservation. Let's assume we're omnipotent as has been represented here and that these other nations don't know what they're doing. But I don't see how we can implement our supreme knowledge if we aren't even a participant in the discussions with those nations that have these gigantic areas of the Pacific.

Senator WEICKER. Your initial statement there is of great interest to me. "I think our position is dictated by the Pacific." Do you have any recommendations? I'm not sure what's right for the Atlantic. If you had your druthers, would the U.S. position be more restrictive in any way? How would you address this problem if you didn't have to deal with existing law and existing policy. If you could start from step No. 1, what would you do?

Mr. NORDQUIST. The first thing I would try to do is to get over the bad feeling everybody has about the United States because we've hung onto this position for so long. We have to do something about that in order to be received into these conservation regional organizations. That's why I think the only step now is simply to assert jurisdiction over the tuna and then get into the regional organizations. I accept the fact that the only sensible way to conserve and manage tuna is by regional organizations.

The problem is, we have let our posture and credibility deteriorate so far that we can't even talk to these nations about conservation and management in regional organizations. This is witnessed by the fact that we are not involved in the South Pacific Forum Fishery Agency or the arrangements that were recently concluded in the so-called NAURU agreement. Obviously, we aren't successful in our eastern tropical Pacific negotiations.

So I don't think there's any easy way out now. The situation has gone on too long. We now have to accept what everybody else has done. Namely, assert jurisdiction over tuna. Afterward we can get to the stage where we can work out good regional conservation regimes.

But when we're outsiders, other nations are just going to roll on without us, and that is not in the long-run interest of any of our tuna industries.

Senator **Weicker**. Chris, your name was mentioned a few minutes ago regarding your opinion on whether the United States can successfully manage a species within the 200-mile limit. Would you like to expound on that

Mr. **Weld**. Yes, Senator Weicker. I'm forced to agree with a number of things that Mr. Burney said. Certainly, a lot of the things that Mr. Nordquist said. But there are tunas and tunas. OK. Some of these fish are so highly migratory and spend so little time within the jurisdiction of any one nation, that no one nation can effectively manage them. That's not to say that we should throw up our hands and walk away from the situation, and that we still don't have some responsibility, No. 1, to take some initiative to the extent that we have any management or any control over them within our own zone or that we should continue to maintain what essentially is a roadblock to any kind of meaningful dialog with the other nations involved in the fisheries for those tuna.

I make a distinction between those tunas and bluefins, that is, the western stock of bluefin, I think, it's pretty clear that they can be managed. I think this argument about access just points up how important it is for the Japanese to get into the 200-mile limit or for our people to get into Mexican waters. Why would our vessels risk confiscation, seizure, and all the unpleasantness involved, if they could catch the fish just as easily and efficiently and economically someplace else? Obviously, there has to be some terribly powerful motivating factor for the Japanese to want to incur the kind of ill will that their operation generates inside our 200-mile limit.

But to come back to the main question, I heard Mr. Kronmiller say that one of the problems with trying to go the unilateral route is we'll remove the protection of the American Fisherman's Protective Act from our fleet. I think that's one of the great stumbling blocks. I think the American Fisherman's Protective Act is really a disincentive to any kind of meaningful negotiation with other nations in the Pacific. Essentially, under that act what we're doing is indemnifying our people for any violations of the laws of a Latin American nation or any other nation in the Pacific. The U.S. taxpayer is going to bail them out, and in the process, we create a tremendous amount of ill will and we invite retaliation, economic retaliation against other fisheries, and our domestic fishermen pay a terrific price for this.

I think that that policy should be reexamined very closely.

Senator **Weicker**. Thank you.

Mr. Anderson, can you give us a rough estimate of the cost to the U.S. fishing industry of the recent tuna moratorium by ICCAT?

Mr. **Anderson**. Since there is not a directed fishery in the Southeast, if the reverse were to take place, that is, access to the bluefin resource by U.S. fishermen, the minimum value to the Southeastern States in the first year would be about $40 million. That's value added to the current income of the region. That value added would occur not only in the harvesting sector, but also in the processing and marketing sectors. That does not include the value added by recreational participants as well as the increased income to the mid-Atlantic and Northeast.

You asked the question earlier about the separation of Atlantic from Pacific problems. I should point out that we, in our industry, recognize the problems faced by a jurisdictional change which would impact the industry on the Pacific coast. That's not our interest. We're not in any way inferring that the problems of the Atlantic should be commingled with the problems of the Pacific. Our problems simply are vessel access to what we consider to be a domestic fishery. It does so happen that the Japanese have had the allocation over time, and we just now see an interest, because of the economic problems of our shrimp industry, of implementing a changeover. We feel that not only our shrimp industry should be able to changeover to tuna, including bluefin, yellowfin, skipjack and other species, but other industries along the eastern seaboard should also benefit. We recognize the complexity of the jurisdictional question, but we fall back on the problem of access.

Senator **Weicker**. Gentlemen, thank you very much. I appreciate your taking the time to appear before the committee.

The next panel will consist of Dr. Frank Mather of the Woods Hole Oceanographic Institute, Mr. Arnet Taylor, executive director of the American Tuna Action Committee, and Bud Walsh of the American Tunaboat Association.

Gentlemen, welcome. Why don't we have Dr. Mather proceed first. Dr. Mather.

STATEMENTS OF DR. FRANK MATHER, WOODS HOLE OCEANOGRAPHIC INSTITUTION; ARNET TAYLOR, EXECUTIVE DIRECTOR, AMERICAN TUNA ACTION COMMITTEE; AND JAMES B. WALSH, AMERICAN TUNABOAT ASSOCIATION

Dr. **Mather**. Mr. Chairman, members of the committee, I'm deeply honored to appear before you to testify in support of S. 1564, The American Tuna Protection Act. I am a member of the Woods Hole Oceanographic Institution and the U.S. ICCAT Advisory Committee.

Historically, the fisheries for Atlantic bluefin tuna have existed since the pre-Christian era with little change. The ancient tuna trap fisheries in the Mediterranean Sea and its Atlantic approaches, the recorded history of which extends at least to the 13th century, produced most of the catch until World War II. Since then, the highly productive purse seine, longline and live bait methods have been introduced and the fisheries have spread over most of the known range of species, see figures 1a and 1b.

Drastic declines in catches and very high tag return rates from our own waters in the 1960's caused the first concern over the status of the stocks. In 1968 a group of experts on tuna assessment met at Miami and concluded that the group of small bluefin fished off New England was small and heavily exploited. They also recommended that fish weighing less than 10 kilograms should not be captured.

ICCAT came into force in 1969, but did not take action on bluefin until 1975. Those actions were moderate. This year it took very strong action. Despite this strong action, I believe we should back the ICCAT regulation up with unilateral authority to manage tuna under the U.S. Fisheries Conservation and Management Act. ICCAT lacks adequate enforcement capability. Any member may openly refuse to accept a measure or may accept it in theory but not in practice. Moreover ICCAT has no control whatsoever over vessels of nations which are not members or of member nations using nonmember flags of convenience. Furthermore, ICCAT may change or terminate its regulations or even cease to exist at any time. Therefore, the United States should be in a position to unilaterally protect its fishermen and fisheries under FCMA.

Can management confined to the United States and Canadian zones effectively protect such a wide ranging species? Tag returns at locations of the major western Atlantic fishing areas indicate that it can. Incidentally, I think it's essential to work with Canada on this, and I think that this is possible. From 1954 through 1980, U.S. agencies tagged over 24,000 bluefin tunas, mostly within our FCZ. Only about 60 of these fish tags have been returned from outside the western Atlantic, as against 3,700 returned from within the western Atlantic. Almost all of these were recovered in the United States or Canadian zones. These results show clearly that conservation measures taken in the United States and Canadian zones will help fishermen in those zones greatly and those in other areas very slightly. There are eight figures which illustrate these tag returns much better than I can. If you have time you may refer to them.

Although the Atlantic bluefin has been caught at one time or another over most of its range, again see figures 1a and 1b, the important western Atlantic catches since 1974 have been concentrated in three relatively small areas, namely, the coastal waters from Cape Hatteras to Newfoundland, oceanic waters east of these, and the northern Gulf of Mexico.

The catches in all of the first area and most of the third were taken entirely inside the United States or Canadian zones, as were a major part of those in the remaining second area. Most of the prime western Atlantic bluefin grounds lie within the potential jurisdiction of the United States and Canada.

Why has the group of giant bluefin in western Atlantic hung in so long without replacement from younger fish and why have the average size and weights of these fish increased so dramatically? My reply to this is that as the entire western Atlantic bluefin stock has declined in numbers the longevity of the individual fish has increased. The figures in table 1 show that the oldest fish taken from 1960 to 1964 were from 18 to 20 years old, whereas the oldest taken from 1978 to 1980 were 30 years old. That's a very dramatic increase in lifespan.

I've dealt only with bluefin, but we should also consider the other tunas, the billfishes and the swordfish. Yellowfin, skipjack, albacore, and bigeye tunas have become increasingly important in the U.S. commercial and recreational fisheries. I refer to table 2 in my complete testimony. Billfishes and swordfish are already under FCMA. U.S. control over tuna longline fishing in FCZ would, however, enable us to protect our interests in the latter important species much more effectively. Now we're faced with the fact that Japanese longliners are free to fish in our zone and inevitably kill large numbers of billfish and swordfish. There are even rumors that swordfish are being transferred to U.S. commercial fishermen at sea. Bringing the tuna species under FCMA would enable us protect our interests in all of these important fisheries much more effectively. These are additional reasons for including the tunas under FCMA.

To sum up, passage of S. 1564 will give us the control we need to protect our fisheries from noncomplying members and nonmembers of ICCAT and also provide for the future when ICCAT may relax its controls or even cease to exist.

Mr. Chairman, this concludes my statement.

[The statement follows:]

STATEMENT OF DR. FRANK MATHER

Mr. Chairman and Members of the Committee, I am honored to be here to present my views today. I have spent over thirty years as a scientist studying Atlantic tunas at the Woods Hole Oceanographic Institution. Much of my work has been in conjunction with the National Marine Fisheries Service (NMFS) and our research organizations. I have been an active member of the Expert Panel for the Facilitation of Tuna Research (EPFTR), of the Food and Agriculture Organization (FAO) of the United Nations and of the Advisory Committee to the U.S. section of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

I am testifying here today in support of Senate Bill 1564, the American Tunas Protection Act. I would like to begin by summarizing the history of the Atlantic bluefin tuna fisheries and related conservation measures. Then I shall outline my concerns with the present situation and explain why I believe this legislative change is necessary.

Fisheries for Atlantic bluefin tuna have existed since the pre-christian era, but they have not changed radically until this century. The traditional tuna trap fishery in the Mediterranean Sea and its Atlantic approaches, the recorded history of which extends at least to the thirteenth century, produced most of the catch until World War II. Lesser quantities were taken by smaller traps, hook and line, and harpoon, as well as by locally specialized gears. Recreational fishing for bluefin, which became popular in the United States and Canada in the 1930's, increased greatly in those countries and spread to European nations after World War II. In this latter period, commercial bluefin tuna fisheries in the entire Atlantic and the Mediterranean underwent great technological changes and a tremendous areal expansion (Figs, 1a and 1b). The purse seine, longline and live bait methods took over as the traditional trap fisheries declined. Ocean going vessels from California and oriental nations joined the local fleets in the hunt. Purse seiners and live baiters exploited coastal resources much more intensively, longliners eventually fished nearly all of the offshore habitat of the species and the bluefin had no place to hide.

In the 1960's, drastic declines in several fisheries and very high tag return rates in our own waters led to consideration of the status of stocks and conservation mechanisms. Subsequent to an FAO sponsored meeting of plenipotentiaries at Rio de Janeiro in 1966, ICCAT entered into force in 1969. Meanwhile, a group of experts on tuna stock assessment which met at Miami in 1968 under the auspices of EPFTR conclude that "the group of small bluefin fished off New England is certainly small and heavily exploited," and that "pending better assessments of the bluefin tuna fishery in the Northern Atlantic, the landing of fish less than 10 kg in weight by the commercial fishery should be discouraged." No action was taken, however, until 1974 when ICCAT recommended that the contracting parties should prohibit the taking of bluefin weighing less than 6.4 kg (with a tolerance for incidental catches) and should limit the fishing mortality of bluefin tuna to recent levels. The later provision was originally for one year but has been renewed as necessary to this date.

The Standing Committee on Research and Statistics (SCRS) of ICCAT, at the recent meetings at Tenerife, concluded that these measures were insufficient to arrest the decline of the stock in the entire Atlantic if the single stock hypothesis were accepted, or in the western Atlantic if the two stock hypothesis prevailed. In the latter case, however, the existing regulations were considered sufficient to maintain the eastern Atlantic stock. SCRS therefore recommended that catches in the western Atlantic be as close to zero as feasible while the existing regulations be extended indefinitely in the eastern Atlantic and Mediterranean. At the final plenary session of the Commission, ICCAT voted 11 to 1, with 3 abstentions, that bluefin catches in the western Atlantic be limted to 800 metric tons per year for a two-year period, subject to annual review by SCRS. The quota of 800 tons was granted mainly to permit scientific evaluation of the status of the stock.

Although ICCAT has finally taken a strong conservatioin stand, I believe that this must be augmented by unilateral authority to manage tunas under the U.S. Fisheries Conservation and Management Act (FCMA).

My first concern is that ICCAT lacks adequate enforcement capability over its own members. Any ICCAT member nation can go through a series of objections and ultimately not be bound by the provisions of a recommendation. Moreover, in the case of the recent proposals regarding a moratorium on bluefin in the western Atlantic, member nations might profess to comply, but still maintain their activities, such as the Japanese bigeye, yellowfin and albacore fisheries, within our Fisheries Conservation Zone (FCZ). Historically, these fisheries have accounted for significant by-catches of bluefin tuna.

I am also concerned that the present system does not address tuna fishing by non-ICCAT nations. Vessels of such nations, including those of other countries using their flags of convenience, would be free to fish in our waters with no legal impediment.

The recent ICCAT recommendation provides "that the annual level of catch in the western Atlantic be adjusted on the basis of the scientific evidence produced by SCRS, to insure the stabilization or increase of the stock." Thus, if the stock recuperates as we hope as a result of this drastic conservation measure, ICCAT will increase the quota. It is not clear, however, how this quota will be allocated. We should be in a position to insist that U.S. fishermen should be fairly compensated for the sacrifices required to bring this about. Furthermore, ICCAT, being an essentially political organization, may reduce or remove these constraints prematurely, or even collapse. In any of these eventualities, I should like to see the U.S. in a position to unilaterally protect its fishermen and fisheries from uncontrolled foreign activities within its waters.

Next I shall address some questions which have been raised about the feasibility of protecting our interests in Atlantic bluefin through the FCMA. In the first place there has been a prolonged and inconclusive debate about whether the species should be managed as a single ocean-wide stock, as the Japanese still contend, or as two stocks which are not completely separated; one in the eastern Atlantic and the Mediterranean and the other in the western Atlantic. Leaving aside the highly technical and complex problems of stock identification, I believe that the results of 27 years of U.S. tagging provide conclusive factual evidence on this matter. As of December 1980, tag returns have revealed about 3,730[1] recaptures in the western Atlantic from about 24,330 bluefin tagged in that area, as against only about 55 recaptures in the eastern Atlantic. Nearly all of the western Atlantic recaptures occurred in the FCZ, as illustrated by Figures 2-9. These figures show only the longer movements. These results completely confirm the often reiterated statement of SCRS that conservation measures taken on one side of the ocean will benefit the fisheries on that side much more than those on the other side. In any case, the recent recommendation of ICCAT has made management on a two stock basis a fact of life.

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[1] More than half of these tagged and recaptured fish had been at liberty for periods of 6 months or more. See Figure 9 for times at liberty for small bluefin.

Secondly, the question of how we can effectively protect such a wide ranging species as the Atlantic bluefin through measures affecting only our FCZ and Canada's has been raised. The Japanese longline fishery has shifted its effort on bluefin extensively (Figure 1a), but since 1974 it has been relatively stable. The major western Atlantic catches of bluefin since then have been in the following relatively small areas (nations, gears, seasons and size groups of fish taken are shown in parentheses):

1. Coastal waters off the northeastern U.S. and the Canadian Maritime Provinces (U.S. and Canada; purse seine, hook and line, harpoon and trap; June–October; mainly small fish south and west of Cape Cod and giant fish north and east of there).
2. Oceanic waters east of the above areas and south of Georges, Nova Scotia and Grand Banks (Japan; longline; December–March; small fish close to continental shelf, medium fish farther out).
3. Northern Gulf of Mexico (Japan; longline; March–June; giant fish).

All of the catches in the first area and most of those in the third occurred within the U.S. and Canadian zones. The second area is more extensive and precise information on catches is more difficult to obtain. It appears, however, that most of the small fish catches and many of those of medium fish took place inside the U.S. and Canadian zones. Thus, despite the extensive range of the bluefin, the majority of the prime western Atlantic fishing grounds lie within the potential jurisdiction of the U.S. and Canada.

Another question that has been raised is why, with the obvious lack of medium sized (75 to 275 lb.) bluefin in recent years, the relict stock of giants has hung in for so long. A related question is why the average and maximum sizes of these fish have increased so dramatically. I have felt that this was due, at least in part, to increased longevity of these fish. This is not an unusual phenomenon when a stock of fish decreases in numbers with a concommitment decrease in competition for food. The age distribution of western Atlantic tuna catches from 1960 through 1980 shown in Table 1 confirms this belief very strikingly. From 1960 through 1964 the estimated ages of the oldest fish taken were from 18 to 20 years. The maximum age increased steadily thereafter to 30 years in 1978 through 1980. The poor back-up of younger age groups now available is also shown very vividly in the 1980 figures.

So far I have dealt entirely with the bluefin tuna problem. In addition to the previously noted increase in size of individuals which sometimes accompanies the decline in numbers of a given species, an increase in the abundance of competing species often occurs. This appears to be the case in our waters. With the decline in the bluefin stock, local purse seiners caught unusual quantities of yellowfin and skipjack tunas in 1981. In the same period, New Jersey sport fishermen caught remarkable numbers of yellowfin and albacore and considerable numbers of bigeye in contrast to a very meager catch of bluefin at the offshore canyons (Table 2). Unusual water conditions may have been more or less responsible for this situation in the coastal waters, but probably not at the canyons. Our fishermen may become increasingly dependent on these other tunas for an indefinite period, pending the hoped for recovery of the bluefin stocks. Therefore we should keep our stake in these species, as well as the bluefin, in mind.

To sum up, passage of Senate Bill 1564 will give us the control we need to protect our fisheries from non-complying members, and non-members, of ICCAT, and also to provide for the future when ICCAT may relax its controls or even cease to exist.

Mr. Chairman, this concludes my statement. Again, I thank you for the opportunity to be here today, and I remain available to answer any questions you or other members of the Committee may have.

TABLE 1.—NUMBERS OF BLUEFIN TUNA CAUGHT FROM WEST ATLANTIC WATERS [1]

Age	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80
0	0	0	0	0	0	0	0	0	0	0	103	0	0	0	0	26	59	24	61	0	296
1	542	1,426	7,956	37,246	23,401	83,657	168,661	15,338	5,359	9,542	93,368	73,211	54,529	8,584	61,242	48,951	5,657	1,322	5,448	2,589	2,654
2	640	1,687	11,405	42,451	36,370	134,523	82,548	103,359	33,908	34,185	127,783	179,254	109,278	83,80	23,664	173,790	20,100	23,657	10,995	11,192	13,902
3	279	940	14,426	58,269	43,580	43,040	13,642	35,365	18,374	21,042	123,762	39,612	37,161	33,371	25,498	5,185	73,701	6,749	15,991	13,977	9,933
4	1,299	4,324	66,343	26,854	16,627	2,646	178	7,881	3,766	10,725	12,946	53,880	3,690	6,055	4,564	16,503	4,499	22,603	10,821	7,150	6,833
5	2,050	5,823	22,595	45,833	39,309	14,632	63	4,482	5,808	3,581	15,551	4,981	3,856	6,310	5,113	2,694	2,936	19,140	9,939	14,912	7,294
6	696	1,032	2,800	31,131	35,504	11,542	552	0	12,200	1,641	2,590	1,126	2,763	2,293	2,478	961	1,775	3,186	8,523	2,084	1,845
7	1,570	2,184	1,008	10,022	7,140	5,193	182	2	4,900	156	1,180	2,033	240	814	913	490	281	3,208	2,710	3,962	1,114
8	904	2,136	2,611	2,635	4,000	8,021	765	2,569	1	347	593	1,620	822	52	385	297	150	1,141	588	2,988	961
9	519	888	3,055	3,529	7,598	21,195	5,538	654	159	93	351	1,249	430	132	577	409	464	383	577	1,077	1,193
10	440	489	2,416	7,686	7,063	15,248	9,228	2,236	260	419	160	910	189	155	281	783	794	863	264	344	817
11	191	343	5,602	17,356	8,784	12,617	6,313	6,774	150	1,776	549	901	230	84	714	1,009	400	794	215	289	322
12	559	678	9,395	15,456	11,990	4,985	3,604	4,400	282	1,937	713	480	413	238	438	931	736	476	234	270	392
13	1,007	1,184	12,157	10,053	11,235	776	2,237	2,303	350	2,101	924	542	598	392	365	1,008	1,068	461	422	531	440
14	878	1,146	7,798	6,346	6,455	1,365	2,901	349	310	1,930	970	658	868	376	1,259	1,262	2,112	935	790	1,026	891
15	497	519	4,106	3,438	2,903	1,883	1,759	327	409	1,362	885	606	983	437	1,753	1,511	2,400	1,980	1,408	1,639	1,044
16	423	356	1,894	1,791	1,768	430	1,586	270	444	1,802	759	545	711	541	1,192	1,985	2,052	1,906	1,316	1,539	1,276
17	84	103	580	601	1,032	621	1,766	190	302	1,457	508	396	585	558	1,625	1,034	1,643	1,682	1,716	1,838	1,293
18	34	77	214	295	382	182	1,155	81	125	1,029	306	218	485	490	2,561	1,001	1,063	1,687	1,418	1,358	955
19	11	0	1	150	286	1,266	1,084	42	58	233	237	132	332	362	854	631	935	1,238	1,339	1,107	1,014
20	0	0	0	46	3	4	603	12	65	216	162	114	182	318	660	448	733	982	1,055	1,004	974
21	0	0	0	0	0	2	25	10	26	249	37	29	125	114	647	149	519	677	784	733	738
22	0	0	0	0	0	0	18	6	18	122	29	25	87	52	472	106	324	378	355	541	532
23	0	0	0	0	0	0	10	5	0	93	25	10	27	26	58	71	169	257	379	478	455
24	0	0	0	0	0	0	0	0	0	17	17	1	13	12	28	31	96	152	264	336	261
25	0	0	0	0	0	0	0	0	0	2	15	0	7	6	12	22	51	65	130	152	225
26	0	0	0	0	0	0	0	0	0	0	16	0	0	1	10	17	54	57	120	147	158
27	0	0	0	0	0	0	0	0	0	0	13	0	0	0	5	15	12	37	62	80	155
28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	18	24	103	109	141
29	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	9	55	49	85
30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	31	39	24

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[1] From. ICCAT working document SCRS/81/55 Atlantic Bluefin Tuna Resource update by M. L. Parrack, Southeast Fisheries Center, NMFS/NOA, Miami

TABLE 2.—NEW JERSEY DIVISION OF FISH, GAME AND WILDLIFE, NEW JERSEY CANYON FISHING SURVEY

The following are rough, preliminary estimates of canyon fishing activities along the New Jersey coast for the period May 1 to September 6. The results are based on interviews with anglers involving 424 fishing trips.

NUMBER OF BOATS

To date we have identified 450 sport fishing boasts that fish New Jersey's offshore canyons. Considering boats not yet encountered by the survey, there are probably at least 600, and pssibly as many as 1,000, canyon fishing boast in the State. Since the estimates of fishing effort and catch are dependent upon the estimated number of canyon boats, the estimates will change considerably until a final figure on canyon boats is reached.

Fishing Effort

	Canyon trips
May	7
June	150
July 1 to 26	1,250
July 27 to Sept. 6	2,200

CATCH

Species	May[1]	June[1]	July 1–26[1]	July 27–Sept. 6	Total
Yellowfin tuna	(2)	301	5,080	6,269	11,651
Bigeye tuna	(2)	42	86	416	544
Albacore	(2)	124	3,592	4,866	8,582
Bluefin tuna	(2)	(2)	86	44	130
Skipjack	(2)	(2)	124	373	497
Dolphin	(2)	(2)	(2)	263	263
White marlin	(2)	52	529	1,293	1,874
Blue marlin	(2)	(2)	11	22	33
Swordfish	(2)	(2)	11	66	77
Mako shark	(2)	(2)	32	44	76
Other sharks	(2)	42	62	22	126
Wahoo	(2)	(2)	(2)	66	66
Tilefish	240	(2)	(2)	(2)	240

[1] Updated estimates.

[2] Too few to estimate.

The above catch estimate do not include the fish landed by shark anglers fishing the area on or near the 30 Fathom Curve.

During August, the "average" catch per trip was about 3 yellowfin, 2 albacore, and slightly more than half of a white marlin.

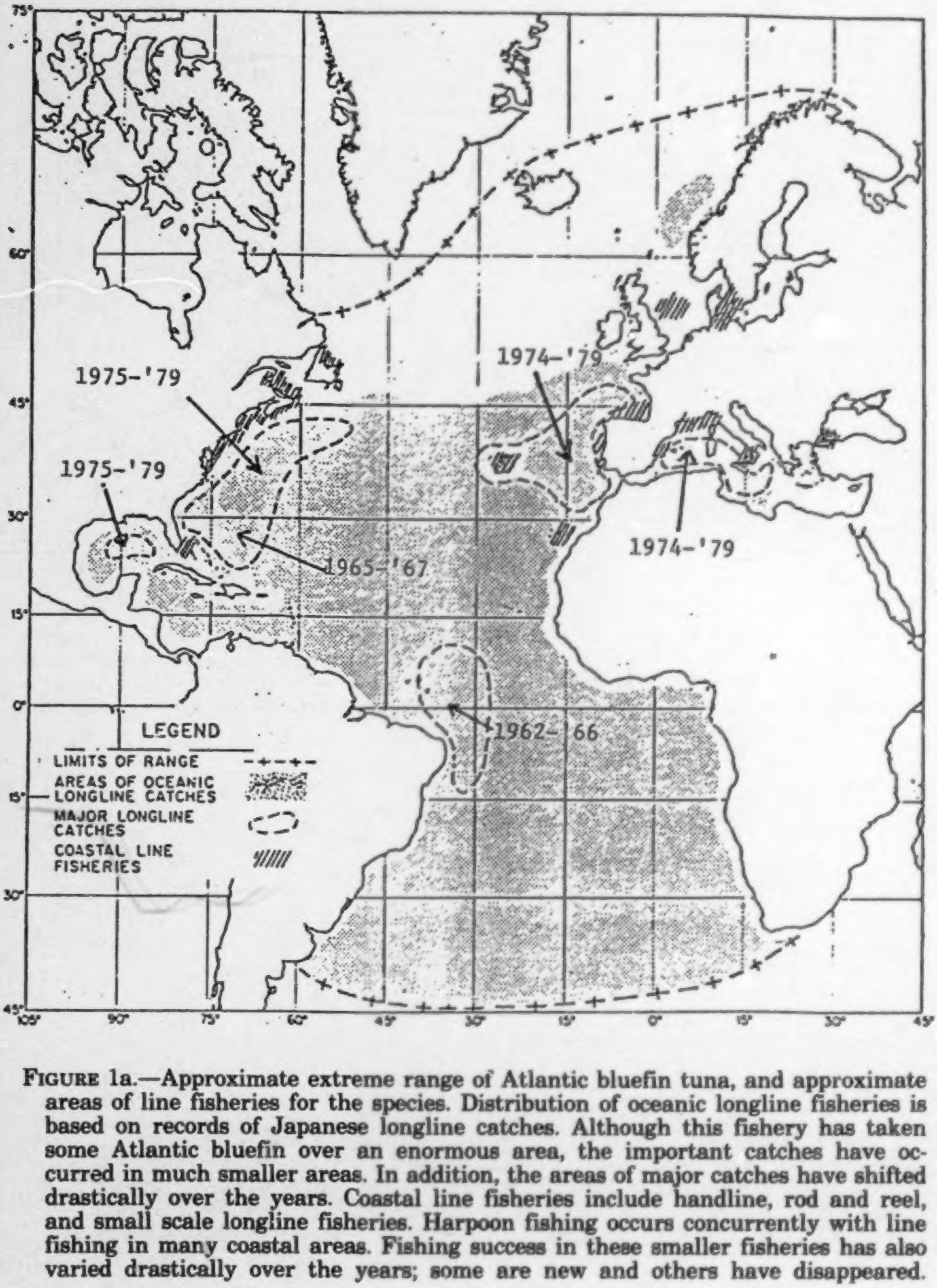

75°
60°
45°
30°
15°
0°
15°
30°
45°
105°
90°
75°
60°
45°
30°
15°
0°
15°
30°
45°
1975-'79
1975-'79
1965-'67
1974-'79
1974-'79
1962-'66
LEGEND
LIMITS OF RANGE
AREAS OF OCEANIC LONGLINE CATCHES
MAJOR LONGLINE CATCHES
COASTAL LINE FISHERIES

FIGURE 1a.—Approximate extreme range of Atlantic bluefin tuna, and approximate areas of line fisheries for the species. Distribution of oceanic longline fisheries is based on records of Japanese longline catches. Although this fishery has taken some Atlantic bluefin over an enormous area, the important catches have occurred in much smaller areas. In addition, the areas of major catches have shifted drastically over the years. Coastal line fisheries include handline, rod and reel, and small scale longline fisheries. Harpoon fishing occurs concurrently with line fishing in many coastal areas. Fishing success in these smaller fisheries has also varied drastically over the years; some are new and others have disappeared.

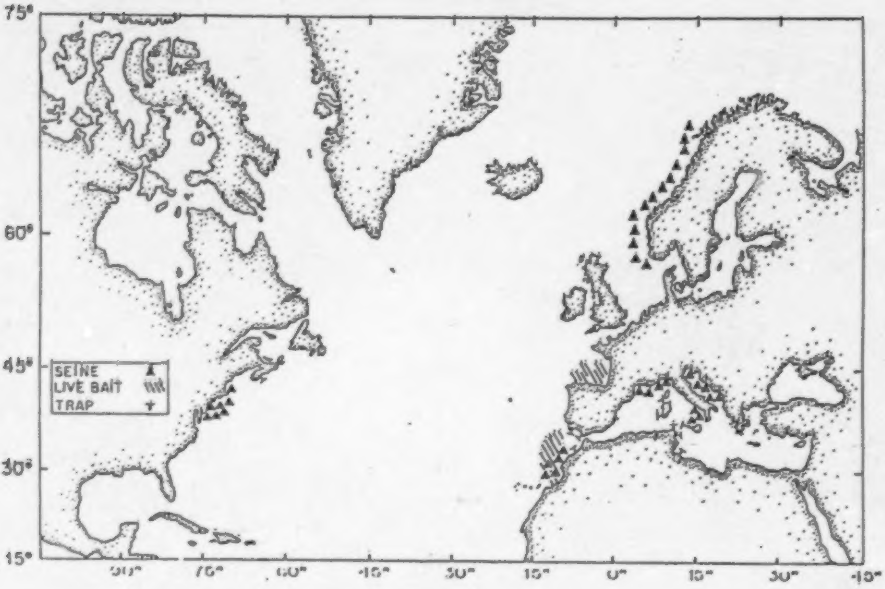

75°
60°
45°
30°
15°
SEINE
LIVE BAIT
TRAP
90°
75°
60°
45°
30°
15°
0°
15°
30°
45°

FIGURE 1b.—Approximate locations of purse seine, live bait and trap fisheries for Atlantic bluefin tuna in the 1979's. Fishing success with these methods has varied drastically. The traditional trap fisheries have been declining toward extinction, whereas the more recently introduced line bait and seine fisheries have met with varying success. The former has fluctuated but remained viable, whereas the latter appears to be gaining in relative importance.

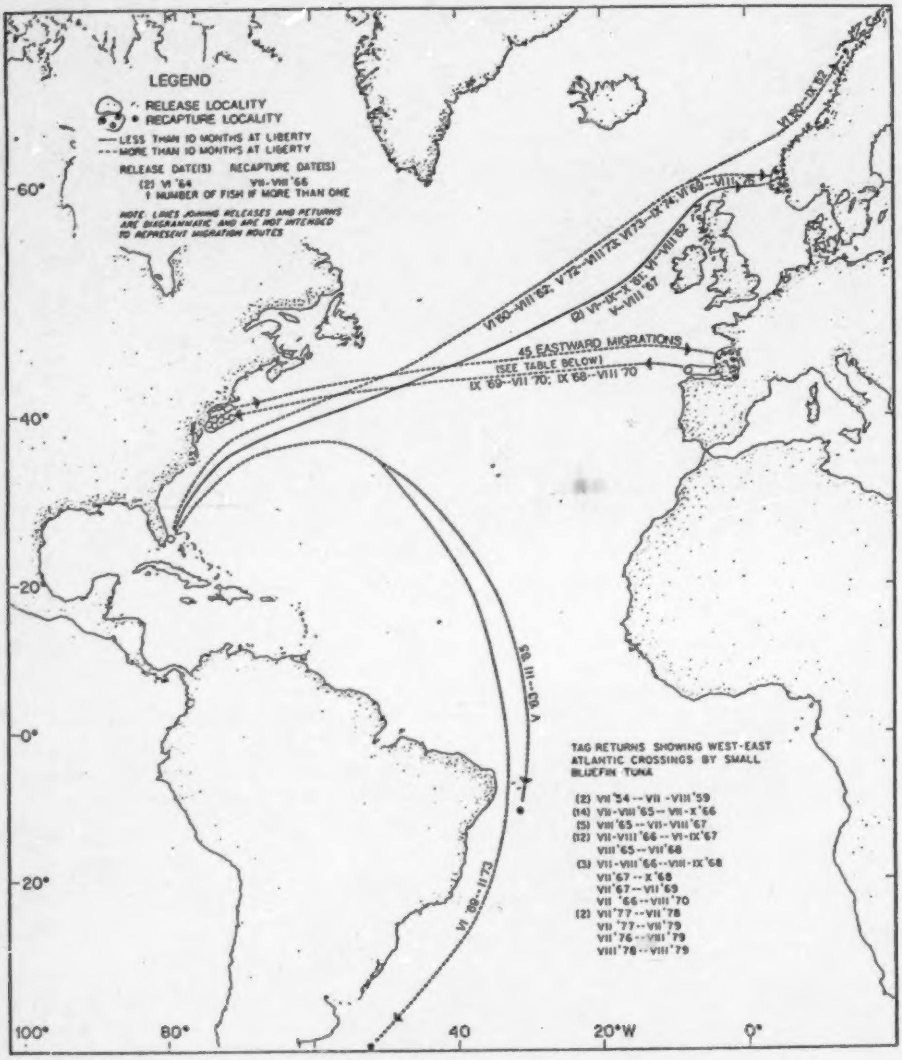

LEGEND
RELEASE LOCALITY
RECAPTURE LOCALITY
LESS THAN 10 MONTHS AT LIBERTY
MORE THAN 10 MONTHS AT LIBERTY
RELEASE DATE(S) RECAPTURE DATE(S)
(2) VI '64 VII-VIII '66
NUMBER OF FISH IF MORE THAN ONE
NOTE: LINES JOINING RELEASES AND RETURNS ARE DIAGRAMMATIC AND ARE NOT INTENDED TO REPRESENT MIGRATION ROUTES
VI '60--IX '62
VI '60--VIII '62; V '72--VIII '73; VI '73--IX '74; VI '68--VIII '75
(2) VI--IX--X '61; VI--VIII '62
V--VIII '67
45 EASTWARD MIGRATIONS
(SEE TABLE BELOW)
IX '69--VII '70; IX '68--VIII '70
V '63--III '65
VI '69--II '73
TAG RETURNS SHOWING WEST-EAST ATLANTIC CROSSINGS BY SMALL BLUEFIN TUNA
(2) VII '54 -- VII -VIII '59
(14) VII-VIII '65 -- VII-X '66
(5) VIII '65 -- VII-VIII '67
(12) VII-VIII '66 -- VI-IX '67
VIII '65 -- VII '68
(3) VII-VIII '66 -- VIII-IX '68
VII '67 -- X '68
VII '67 -- VII '69
VII '66 -- VIII '70
(2) VII '77 -- VII '78
VII '77 -- VII '79
VII '76 -- VIII '79
VIII '78 -- VIII '79
60°
40°
20°
0°
20°
100°
80°
40
20°W
0°

FIGURE 2.—Transatlantic and transequatorial movements of bluefin tuna revealed by tag returns obtained through 1979.

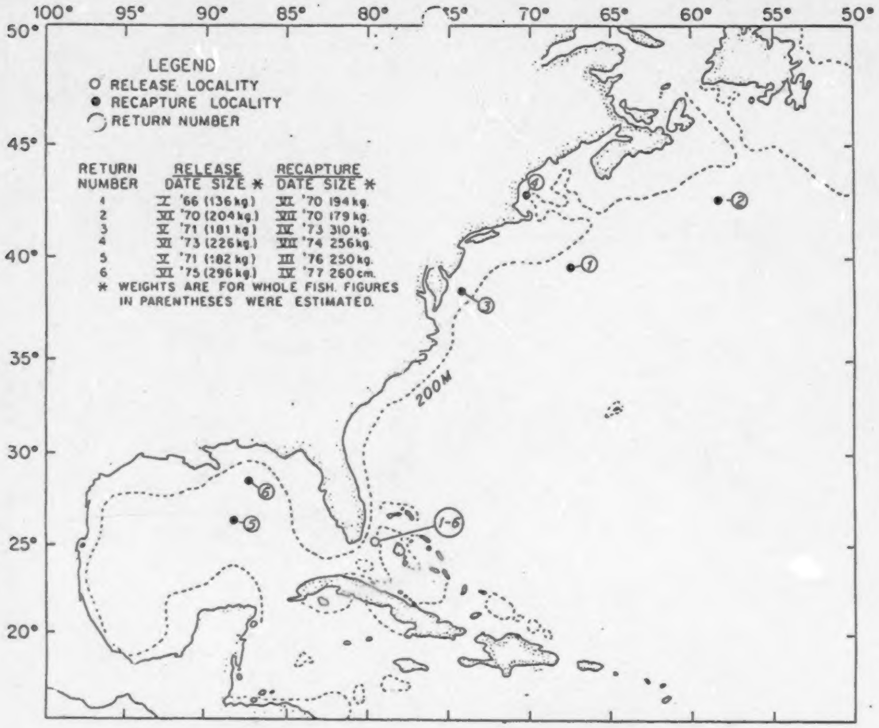

100°
95°
90°
85°
80°
75°
70°
65°
60°
55°
50°
50°
45°
40°
35°
30°
25°
20°
LEGEND
○ RELEASE LOCALITY
● RECAPTURE LOCALITY
◯ RETURN NUMBER
RETURN NUMBER | RELEASE DATE SIZE * | RECAPTURE DATE SIZE *
1 | V '66 (136 kg) | VI '70 194 kg.
2 | VI '70 (204 kg.) | VII '70 179 kg.
3 | V '71 (181 kg) | IV '73 310 kg.
4 | VI '73 (226 kg.) | VII '74 256 kg.
5 | V '71 (182 kg) | III '76 250 kg.
6 | VI '75 (296 kg.) | IV '77 260 cm.
* WEIGHTS ARE FOR WHOLE FISH. FIGURES IN PARENTHESES WERE ESTIMATED.
200M
①
②
③
④
⑤
⑥
1-6

FIGURE 3.—Movements of giant bluefin within the western North Atlantic revealed by recaptures of fish tagged off the northwestern Bahamas.

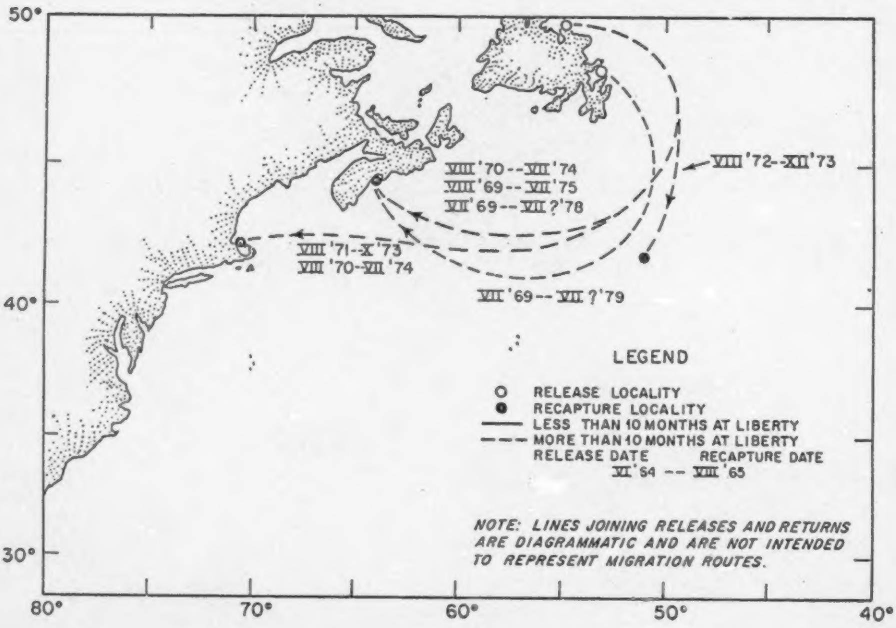

50°
40°
30°
80°
70°
60°
50°
40°
VIII '70--VII '74
VIII '69--VII '75
VII '69--VII ?'78
VIII '72--XII '73
VIII '71--X '73
VIII '70--VII '74
VII '69--VII ?'79
LEGEND
○ RELEASE LOCALITY
● RECAPTURE LOCALITY
—— LESS THAN 10 MONTHS AT LIBERTY
– – – MORE THAN 10 MONTHS AT LIBERTY
RELEASE DATE RECAPTURE DATE
VI '64 -- VIII '65
NOTE: LINES JOINING RELEASES AND RETURNS ARE DIAGRAMMATIC AND ARE NOT INTENDED TO REPRESENT MIGRATION ROUTES.

FIGURE 4.—Longer movements of giant bluefin tuna revealed by recaptures of fish tagged in Newfoundland waters.

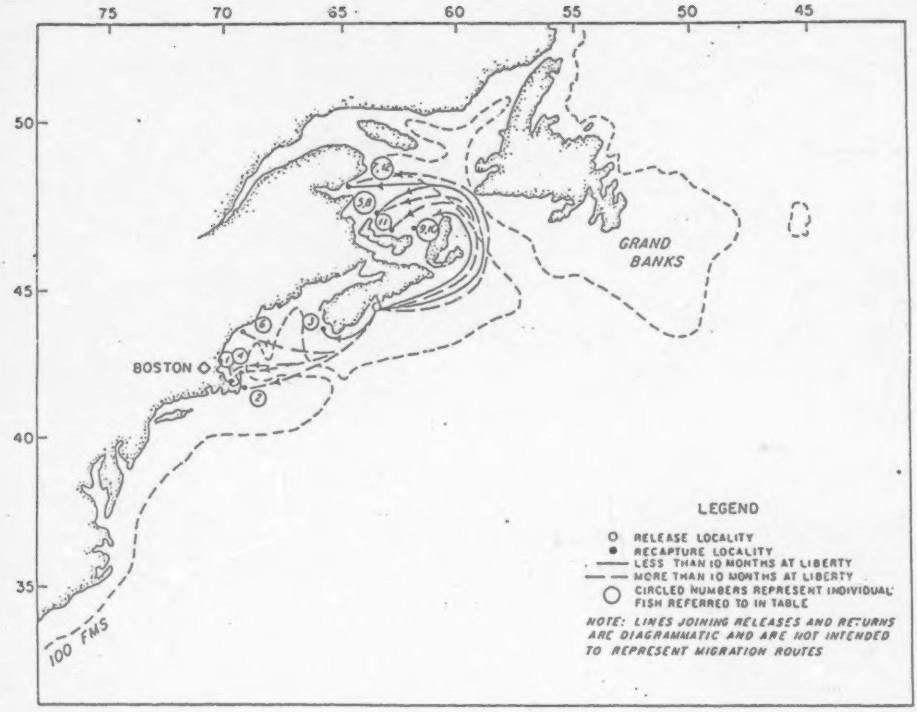
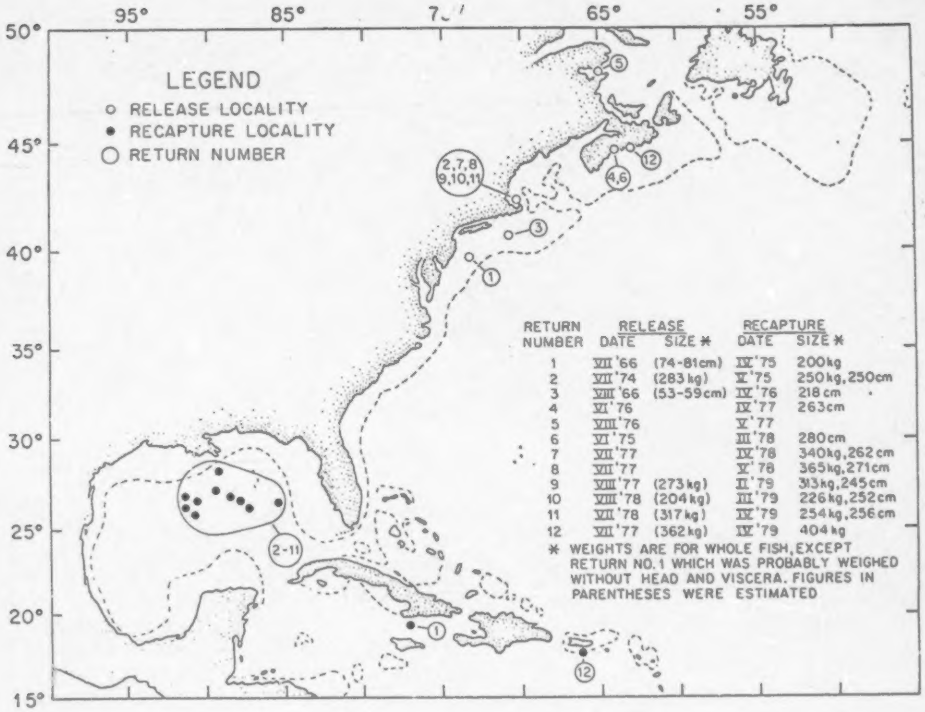

75
70
65
60
55
50
45
50
45
40
35
BOSTON
GRAND BANKS
100 FMS
7,12
5,8
11
9,10
6
3
1
4
2
LEGEND
○ RELEASE LOCALITY
● RECAPTURE LOCALITY
LESS THAN 10 MONTHS AT LIBERTY
MORE THAN 10 MONTHS AT LIBERTY
○ CIRCLED NUMBERS REPRESENT INDIVIDUAL FISH REFERRED TO IN TABLE
NOTE: LINES JOINING RELEASES AND RETURNS ARE DIAGRAMMATIC AND ARE NOT INTENDED TO REPRESENT MIGRATION ROUTES

FIGURE 5.—Longer movements of giant bluefin tuna within Canadian and New England waters revealed by recaptures of fish tagged in St. Margaret's Bay, Nova Scotia.


95°
85°
7_°
65°
55°
50°
45°
40°
35°
30°
25°
20°
15°
LEGEND
○ RELEASE LOCALITY
● RECAPTURE LOCALITY
◯ RETURN NUMBER
5
2,7,8 9,10,11
12
4,6
3
1
2-11
1
12

RETURN NUMBER	RELEASE DATE	RELEASE SIZE *	RECAPTURE DATE	RECAPTURE SIZE *
1	VII '66	(74-81cm)	IV '75	200kg
2	VII '74	(283kg)	V '75	250kg, 250cm
3	VIII '66	(53-59cm)	IV '76	218 cm
4	VI '76		IV '77	263cm
5	VIII '76		V '77	
6	VI '75		III '78	280cm
7	VII '77		IV '78	340kg, 262 cm
8	VII '77		V '78	365kg, 271cm
9	VIII '77	(273kg)	II '79	313kg, 245cm
10	VIII '78	(204kg)	III '79	226kg, 252cm
11	VII '78	(317kg)	IV '79	254kg, 256cm
12	VII '77	(362kg)	IV '79	404kg

* WEIGHTS ARE FOR WHOLE FISH, EXCEPT RETURN NO. 1 WHICH WAS PROBABLY WEIGHED WITHOUT HEAD AND VISCERA. FIGURES IN PARENTHESES WERE ESTIMATED

FIGURE 6.--Movements of bluefin tuna revealed by recaptures in the Gulf of Mexico and the Caribbean Sea of fish tagged in Canadian waters or off the northeastern United States.

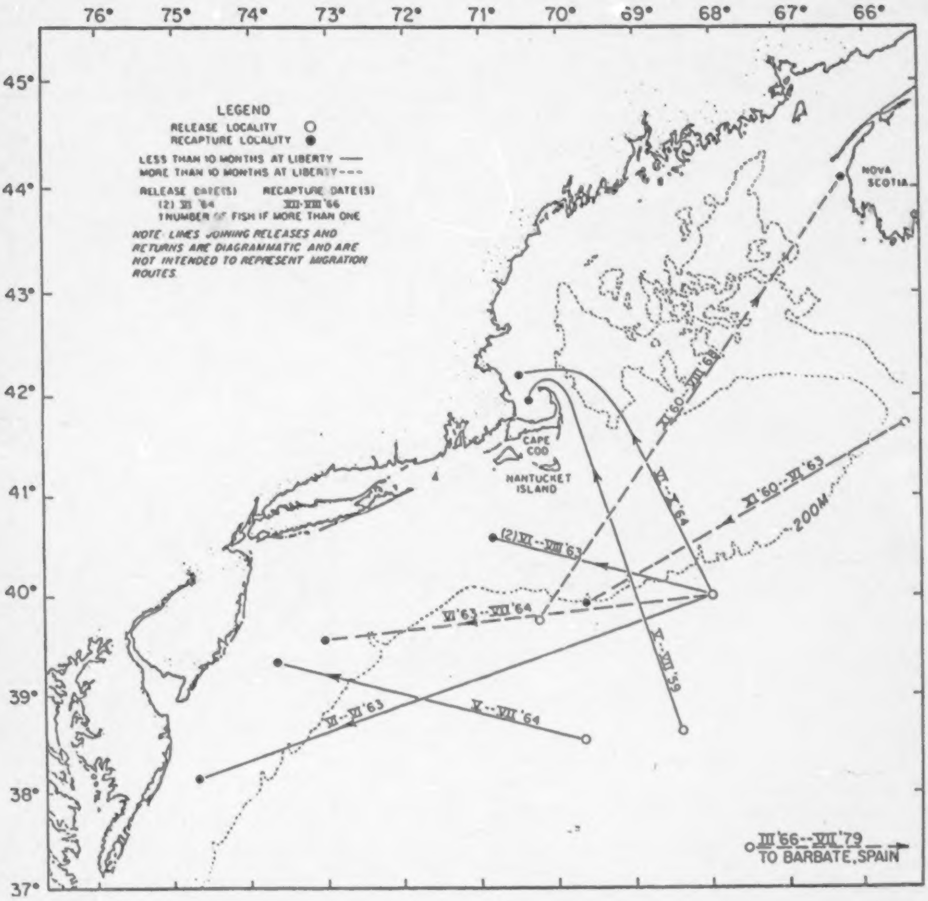
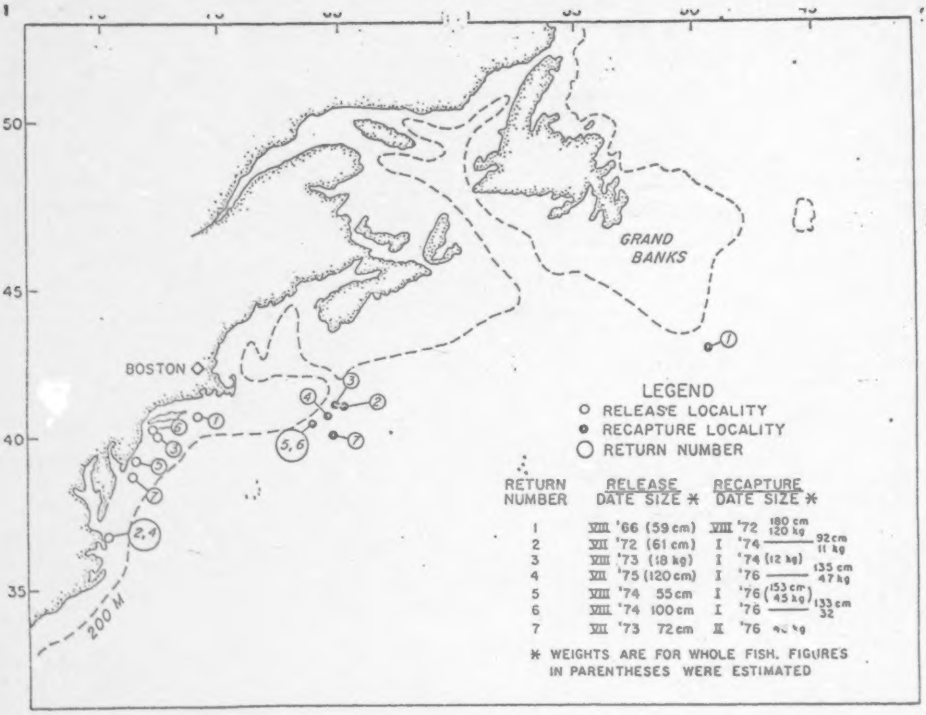

76°
75°
74°
73°
72°
71°
70°
69°
68°
67°
66°
45°
44°
43°
42°
41°
40°
39°
38°
37°
LEGEND
RELEASE LOCALITY ○
RECAPTURE LOCALITY ●
LESS THAN 10 MONTHS AT LIBERTY ——
MORE THAN 10 MONTHS AT LIBERTY - - -
RELEASE DATE(S) RECAPTURE DATE(S)
(2) XI '64 XII-VIII '66
↑NUMBER OF FISH IF MORE THAN ONE
NOTE: LINES JOINING RELEASES AND RETURNS ARE DIAGRAMMATIC AND ARE NOT INTENDED TO REPRESENT MIGRATION ROUTES
NOVA SCOTIA
CAPE COD
NANTUCKET ISLAND
XI'60--VIII'68
VI--X'64
XI'60--VI'63
200M
(2) VI--VIII'63
VI'63--VII'64
V--VII'59
V--VII'64
VI--VI'63
III'66--VII'79
TO BARBATE, SPAIN

FIGURE 7.—Movements of bluefin tuna revealed by recaptures of fish, mostly of medium size when tagged, released in northwestern Atlantic waters north of 35°N latitude, west of 60°W longitude, and outside the 200 m isobath.


50
45
40
35
GRAND BANKS
BOSTON
200 M
LEGEND
○ RELEASE LOCALITY
● RECAPTURE LOCALITY
◯ RETURN NUMBER
* WEIGHTS ARE FOR WHOLE FISH. FIGURES IN PARENTHESES WERE ESTIMATED

RETURN NUMBER	RELEASE DATE	RELEASE SIZE *	RECAPTURE DATE	RECAPTURE SIZE *
1	VIII '66	(59 cm)	VIII '72	180 cm 120 kg
2	VII '72	(61 cm)	I '74	92 cm 11 kg
3	VIII '73	(18 kg)	I '74	(12 kg)
4	VII '75	(120 cm)	I '76	135 cm 47 kg
5	VIII '74	55 cm	I '76	(153 cm 45 kg)
6	VIII '74	100 cm	I '76	133 cm 32
7	VII '73	72 cm	II '76	[illegible] kg

FIGURE 8.—Movements of young bluefin tuna revealed by recaptures in offshore northwestern Atlantic waters of fish tagged during the warm season in coastal waters between Cape Hatteras and Cape Cod.

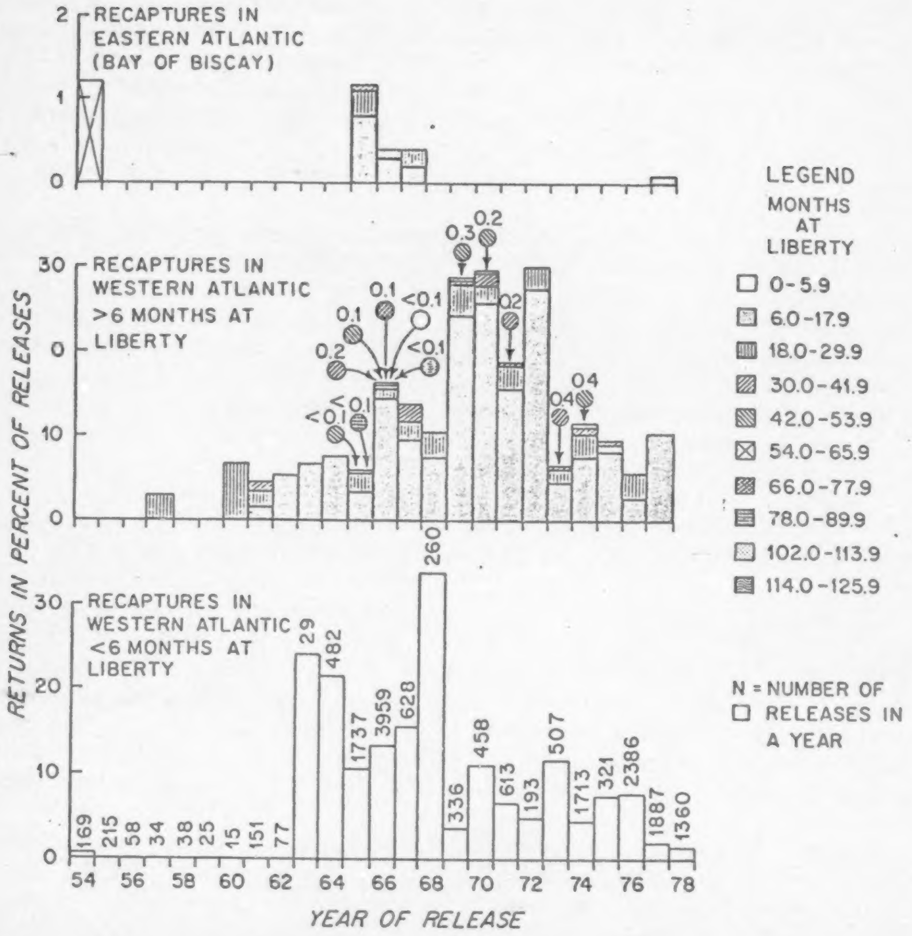


FIGURE 9.—Comparison in percentage of releases, of returns from the eastern and western Atlantic from yearly taggings of small bluefin tuna in the June-October fishing seasons in coastal waters between Cap Hatteras and Cape Cod, according to time at liberty. Since no transatlantic migrations within a given fishing season were detected, local recaptures occurring within six months of release are shown separately. Comparison of recaptures after longer periods at liberty provides a more valid evaluation of transatlantic mixing. Note that the vertical scale for recaptures in the eastern Atlantic is 10 times that for recaptures in the western Atlantic.

Senator WEICKER. Thank you very much, Dr. Mather. Bud, it's good to see you on the other side of the table.

Mr. WALSH. Thank you, Senator.

Let me proceed by summarizing my testimony, which is rather lengthy, for the reason, Senator, that I thought it was appropriate in that testimony to give you the historical setting as to why this major element of the Nation's ocean policy is where it is today. You also asked me to talk about the agreement that the American Tunaboat Association has with certain political subunits of the trust territories, and I will.

Briefly, let me say that for about somewhere in excess of about 30 years, the United States has pursued a policy of insisting that jurisdiction over tuna not be lodged in coastal nations but necessarily be contained with an international regulatory committee for the purpose of conserving the resource. The basic biological fact of the highly migratory nature of these animals is the fundamental principle on which this policy is based. I might point out that it started sometime after the Truman proclamation in 1945, particularly with the ratification of the Inter-American Tropical Tuna Commission legislation in the early 1950's.

As these new international agreements were working and as jurisdictional claims began to change, particularly in the Pacific area, there were obviously seizures, there were confrontations, there were differences of opinion. During this period of time, while our executive branch did pursue the policies I just mentioned, the Congress continually along the way reaffirmed and reasserted those protections, and it has been stated earlier and continually that the position of the United States represents the position of only the southern California fishing fleet.

I might point out that the Senator that sponsored the Fishermen's Protective Act was Leverett Saltonstall of Massachusetts, which indicates that the policy has been bipartisan and continual ever since.

There is no way, we believe, that any management program for any tuna can be effective through simple and sole unilateral efforts either by the United States or any other country. The western stock of the Atlantic bluefin is an example. An animal during the course of its migration travels through at least 22 separate political jurisdictions, if one assumes the 200 miles covers that. In many of those countries, by the way, Senator, they also claim jurisdiction over tuna.

One would then say, why don't those countries simply act unilaterally? Why do they instead, many of them, follow ICCAT and participate in ICCAT and use ICCAT? Well, the reason is very simple. They realize that any actions that they would take within their own zone would be ineffective and might even be counterproductive to a global or near global or regional conservation regime.

There's no doubt that the United States, if it alone went unilateral, that ICCAT would probably cease to exist, because the provisions that we have in our Fishery Conservation and Management Act are just antithetical to the international agreement we now have with ICCAP, which would mean possibly that Japan would pull out. The activities of Japan beyond our 200-mile would thereby go unregulated.

Other countries which, frankly, have not shown the interest that we have in the past in conserving bluefin might not necessarily do anything in their zones and could even increase catches. If the basic issue—that every country would then pursue its own catch, you can see that before long what is now a very severe stock situation would be even worse, and eventually would lead to the endangerment of a species.

Mr. Chairman, we are requesting that the National Ocean Policy Study not recommend any changes in existing and longstanding U.S. tuna policy. We believe that U.S. tuna policy as it's pursued today is the correct policy, biologically and also protects our interests. In addition, we do believe very strongly, and I know you have a different point of view, that the loss of the tuna position that we now pursue, as well as the protections that we have in terms of embargoes and the like, would cost us what is really at issue in all these international debates about what is law and what is policy, and that is bargaining position. Anybody who has studied international law knows that unlike domestic law, it's difficult at any particular point in time to get a definitive statement on what is the law that is convincing to the other side in dispute. So, in many cases what we have is international law being used by either side to a dispute as a bargaining tool.

And if we should lose the U.S. policy now regarding tuna, if we should lose the possibility of using an embargo to a country that is being unreasonable, then we believe that the chances for us to continue our access, to continue our highly efficient fishing activity that this tuna fleet has developed—it seems ironic that one of the activities that is a major part of our national ocean program, one that is very effective, continues to fight against having its program shot in the foot by others within the ocean community who feel that it's too successful and somehow is getting away with something it shouldn't.

We just feel very strongly that until we get adequate access agreements, until we get appropriate arrangements with the various countries such as we have with Canada, such as we have with the trust territories, that any wavering of support for policy, including this legislation, hurts our bargaining position. The Mexican negotiators read the newspapers. They read the Congressional Record. We believe it has already hurt our negotiations, which are in a critical stage with Mexico, and we believe we are making some progress with Costa Rica. We are making progress, which we can report to you later on, with other countries out in the Pacific, and we believe that once we put aside the jurisdictional question, which has been done over and over again in the history of this controversy, we can settle arrangements that are reasonable to the countries involved and our fishing fleet, so that we can continue what we think are very successful activities.

Let me pass over the ICCAT issues, because that's already been discussed in depth, and let me tell you about our regional arrangement with the Government of Palau, and the Federated States of Micronesia and the Marshall Islands.

In 1981, we agreed—the ATA agreed—with these three subunits. We agreed to buy licenses to allow vessels to fish in the waters of this area. And as you may know, unlike the Northern Marianas, these three units are not covered by the Fisheries Conservation and Management Act, and they do have no legislation with regard to fishing.

Nineteen vessels have purchased licenses. We have agreed to observe their local law. We are assisting in information gathering with the three groups. And the terms of the agreement have just been renewed through December 1982. We consider this to be—unlike what Mr. Nordquist has indicated—a model article 64 cooperative agreement, which covers over 3 million square miles of the Western Pacific Ocean.

It is an area, as has been indicated, that is not as well utilized. But we see enormous possibilities of development of the stocks of skipjack in that area, which the South Pacific Commission has reported may be in excess of 10 billion tons.

We see this agreement as a model. We see this as a way to develop an opportunity for our fishing fleets to continue to pursue their livelihood, to pursue the financial investment that they've undertaken. It shows in this agreement, as well as with Canada, that we can set aside this jurisdictional difference of opinion and reach an agreement, and continue to have good relations with these countries once we achieve that agreement.

We just believe, however, that if there is any reversal of policy, especially one which is aimed at solving an ICCAT difficulty, a bluefin problem, which would not totally solve the problem, we think it would simply be too harmful to undertake at this time.

[The statement follows:]

STATEMENT OF JAMES P. WALSH REPRESENTING THE AMERICAN TUNABOAT ASSOCIATION

Mr. Chairman, thank you for the opportunity to appear today before the National Ocean Policy Study of the U.S. Senate and present the views of the American Tunaboat Association (ATA) concerning this nation's fishery policies, specifically those relating to tuna. The ATA is a nonprofit fishery cooperative representing nearly 70 percent of all U.S.-flag tunaboats; owners of 101 of the 117 U.S.-documented commercial tuna seiners are members of ATA. Representatives of ATA have long participated in and contributed to debates concerning the appropriate policies this nation should pursue in its effort to realize the potential of ocean resources. We welcome this change to report to you on the status of the tuna fisheries that are of concern to our country and the difficult situation presently facing U.S. tunaboat owners.

This morning I would like to (1) sketch briefly the background of tuna fishery policies being pursued by our government today; (2) comment on the recent meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT); and (3) describe, as your staff requested, the regional licensing agreement between ATA and Palau, the Marshall Islands, and the Federated States of Micronesia for tuna fishing in waters around those western Pacific islands.

1. INTERNATIONAL MANAGEMENT OF WIDE-RANGING TUNAS

a. The role of biology

The key factor in determining the best institutional and jurisdictional regime for the management of a fishery is the biological life cycle of the fish stock involved. Location of birth, foraging, mating, schooling, and death all are immutable biological facts that a fishery manager must accept as given. In the case of tunas, the stocks of greatest commercial interest—namely yellowfin, skipjack, bigeye, albacore, the bluefin as well as other tunas—range extensively throughout the world's oceans, migrate very long distances, and are often found in concentrations in different locations each year. As an example of this characteristic, a three year skipjack tagging program recently run by the South Pacific Commission recorded migrations in excess of 3,200 miles for several fish, and most were found to travel in excess of 1,000 miles annually. Similarly, tagged northern bluefin tuna have been recorded to swim over 4,800 miles across the Atlantic Ocean in about seven weeks. Even greater migrations of albacore and bluefin tuna have been recorded by scientists in the Pacific.

To be successful, a management program for a fishery should, to the maximum extent possible, seek to manage an individual stock of fish as a unit throughout its range. This is a fundamental principle of sound fishery management, and simple common sense. A management plan pursued by one country is doomed to failure if it does not account for fishing that occurs beyond its claimed jurisdictional boundaries. For this reason, it would be impossible for the United States alone to take effective measures to conserve the Atlantic stock of the northern bluefin tuna which, during its migrations, ranges through at least 22 separate political jurisdictions bordering the western Atlantic ocean and the Caribbean.

The basis of all good fishery management is the recognition of the biological characteristics of the stock to be managed. Consequently, U.S. fishery policy on tuna has been founded on the view that tuna should not be subject to the exclusive fishery management of a coastal nation but instead should be managed through regional, or even near-global, international organizations. We urge that this fundamental and longstanding U.S. policy, which is both biologically correct and protective of U.S. interests, be maintained and continue to be aggressively pursued by the Federal Government.

b. Origins of U.S. tuna policy

The outlines of U.S. fishery policies that are followed today by the United States Government began to take form with the issuance of the Truman Fisheries Proclamation of 1945. Motivated primarily by foreign fishing pressures off U.S. shores, the Proclamation asserted the special interest of the United States in conserving fishery resources found off its coast but also recognized the need to respect the traditional interests of other nations. While the Truman Proclamation was couched in coastal terms, it nonetheless called for international negotiations and agreements if the fishery in need of conservation involved fishermen of several nations.

Despite the dual elements of the Truman Proclamation reflecting both U.S. coastal and long-distance interests, coastal Latin American countries began in the late 1940's to assert greater ocean jurisdictional claims over fish resources with the Chilean assertion of a 200-mile fishery zone in 1947, culminating in a claim of complete territorial sovereignty out to 200 nautical miles by Ecuador in 1966, in reaction to the Proclamation. At the time of the Proclamation, the U.S. tuna fleet had not expanded its operations in the eastern Pacific to the extent it has today but in 1945 future development of the fishery meant that greater operations in that area were around the corner.

After several especially contentious years of inter-government discussions over the jurisdictional issue, the United States and Costa Rica in 1949 agreed to establish an Inter-American Tropical Tuna Commission to manage tunas in the eastern Pacific Ocean, and invited other nations in the region to join the new international organization. The agreement finessed the jurisdictional issue, with both sides neither accepting nor rejecting jurisdictional claims within the terms of the agreement. The Commission was set up to monitor the fishery, undertake scientific investigation, and if needed recommend to the member countries "joint action. . . designed to keep the populations of fishes covered by this Convention at those levels of abundance which will permit the maximum sustained catch." Eventually other nations joined—including Canada, France, Japan, Mexico, Panama, Ecuador and Nicaragua—however three countries left the Commission after declaring 200 mile claims: Ecuador in 1967, Mexico in 1978, and Costa Rica in 1979.

From the United States view, the Commission has worked reasonably well, involving both coastal and distant water fishing nations in the joint management of the wide-ranging tuna stocks and developing a solid base of biological information, without the need to resolve the very difficult jurisdictional issue. The establishment and maintenance of international commissions such as the IATTC and its counterpart in the Atlantic, ICCAT, has been bedrock U.S. fishery policy ever since.

The question of the proper limits of coastal nation jurisdiction, however, continued to bedevil the nations of the world, leading to "cod"wars, and "tuna" wars through the 1950's. U.S. vessels were seized by nations not members of IATTC despite considerable efforts by the U.S. government and the tuna industry to bring about an accommodation with the Latin countries. The failure of the First and Second U.S. Law of the Sea Conferences, in 1958 and 1960 respectively, to resolve the fishery jurisdiction issue did not help matters any.

Then, in the 1960's, the U.S. tuna fleet converted from baitboats to the more efficient tuna seiner. This technological change began a growth in the size and mobility of the fleet that quickly led to greater harvests and, unfortunately, more seizures. As preparations began for the Third U.N. law of the Sea Conference in 1968, the less-developed coastal nations, particularly the Latin American countries clearly considered a 200-mile fishery zone (including tuna) as a fundamental, even non-negotiable policy goal. The United States and other seapower nations just as strongly opposed expanded coastal state jurisdiction over fisheries.

Throughout the various preparatory sessions of the Law of the Sea Conference, the United States continued its support for having tuna management in the hands of international organizations in recognition of the migratory nature of tuna resources. This was true even though sentiment in the United States Congress in 1973 and 1974 was coalescing behind legislation unilaterally declaring a 200-mile exclusive fishery management zone off the United States. Only July 30, 1971, before the U.N. Seabed Committee, the United States explained its "species" approach to fishery articles in a new Law of the Sea Treaty: first, coastal nations would have preferential rights beyond a 12 mile fishery zone for coastal and anadromous fish stocks; and, second, highly migratory species such as tuna would be managed through international organizations and would not be subject to preferential rights by coastal nations. The same dual purpose policy first articulated by the Truman Proclamation was reaffirmed. The U.S. draft fishery articles introduced in the Seabed Committee in 1972 continued this policy, giving a greater emphasis to coastal state jurisdiction over coastal and anadromous species and international regulation of highly migratory stocks like tuna. At the Caracas session in 1973, the United States formally accepted the concept of a 200-mile zone, but with the exception that highly migratory species would be controlled through regional multilateral organizations, not exclusively by the coastal nation.

With the enactment of the Magnuson Fishery Conservation and Management Act of 1976, the U.S. Congress in essence embraced the U.S. fishery policy positions espoused at the U.S. Law of the Sea Conference by the Executive Branch and continued national policy regarding tuna as it had been developed from the 1940's.

c. *Congressional support of U.S. tuna policy*

From the early beginnings of the formulation of U.S. tuna policy, the United States Congress has reaffirmed and even strengthened U.S. government actions in support of U.S. tuna interests. The long history of Congressional support began with the ratification of 1949 IATTC treaty and implementation of that treaty through the Tuna Conventions Act of 1950. The following is a summary of actions taken by the United States Congress in order to further U.S. tuna policies. The legislative histories of these actions provide a useful background to today's policies.

In 1954, Congress enacted the Fishermen's Protective Act to enable "the American Fisherman to know clearly at all times where he could fish with assurance of protection by his government." The law provided for the Department of State to assist in the release of seized vessel and its crew and to reimburse the vessel for any fine paid to a seizing country pursuant to jurisdictional claims not recognized by the United States. The costs to the U.S. government were to be recovered by claims against the country involved. Its enactment followed the seizure of American-flag fishing vessels by Latin American countries during the early 1950's. The principal sponsor of the legislation was Senator Leverett Saltonstall of Massachusetts.

In 1968, Congress further amended the Fishermen's Protective Act, providing for a voluntary insurance program between a fishing vessel owner and the Department of Commerce to cover losses other than fines, fees, and other monetary sanctions imposed by a seizing country, e.g. for damage or loss of fishing gear or vessel, loss of fish, and lost profits. In addition, the amendments call for reducing any foreign assistance to a seizing country if it failed to pay U.S. claims under the Act. Again, the U.S. Congress reaffirmed its commitment to support U.S. fishing activity in waters over which the U.S. recognized no coastal nation jurisdictional.

In 1976, the Congress refused to extend exclusive U.S. fishery management jurisdiction over tuna in legislation establishing the U.S. 200-mile fishery conservation zone, and even strengthened the Fishermen's Protective Act protections against seizure and harassment. In the Senate and House Reports and in the floor debates, the U.S. policy concerning management as first conceived by the 1945 Truman Fisheries Proclamation was reaffirmed and restated: "The United States does not recognize the right of any foreign country to extend its right, claims, or jurisdiction to tuna." Furthermore, the legislative history makes it clear that the U.S. would not recognize management by a coastal nation unless pursuant to an international agreement for that purpose, to which the United States is a party.

These enactments demonstrate over 30 years of Congressional recognition of the highly migratory nature of tuna and the futility of unilateral management of them, and strong, consistent support for American-flag tuna fishermen.

d. *Tuna negotiations since 1976*

Obviously, the several unilateral national actions claiming 200-mile fishery zones and economic resource zones after the United States took the first major step in 1976 significantly altered the worldwide fishery jurisdiction debate. First, fishery zone extensions became less of an issue in the Law of the Sea Conference, although the U.S. has continued to press its tuna position. Secondly, Mexico and Costa Rica in 1977 called for a new Plenipotentiary Conference to consider developing a new tuna treaty as a replacement for the IATTC. Shortly thereafter, Mexico announced its intention to withdraw from the Commission and filed its formal notice to do so, and withdrew in 1978. Costa Rica also withdrew in 1979. A second Plenipotentiary Conference was held in 1979 with the United States and 12 other countries in attendance. At the meeting agreement with Ecuador and Peru failed because of the jurisidictional question; agreement with Mexico failed because of disagreeemnt over how to allocate among the countries a fixed quota for yellowfin and how high to set the cost of license fees.

With the breakdown of negotiations, Costa Rica and Mexico began to seize U.S. tunaboats. Mexico also terminated a bilateral agreement with the United States that allowed reciprocal fishing by each country's fishermen in the other's zone (it did not cover the purse seine tuna fishery) and a Governing International Fishery Agreement with the U.S. which gave Mexico access to the U.S. zone even though it had no traditional fishing in that zone prior to 1976. The United States government responded with embargoes on tuna products coming to the U.S. from Costa Rica (effective February, 1979) and Mexico (July, 1980) as called for under section 205(a) of the Magnuson Fishery Conservation and Management Act. Those embargoes remain in place today. Recent attempts to reopen the discussions have been successful with Costa Rica. but Mexico still refuses to initiate talks despite the efforts of U.S. Ambassador to Mexico John Gavin to get the two countries together.

We believe that continued, even expanded, pressure on the Government of Mexico is needed to bring about discussions for a regional licensing agreement providing fair access for U.S. tunaboat owners to tuna fishing areas. Continuation of long-standing U.S. tuna policy is vital to our negotiating position; a change in that position will, ATA believes, eliminate our bargaining leverage and leave our fleet to an uncertain existence under the total control of these foreign countries. It would also deny the fundamental highly migratory nature of tuna stocks. We urge the National Ocean Policy Study not to recommend any changes in existing national policies concerning tuna management.

2. MANAGEMENT OF ATLANTIC TUNA: RECENT ICCAT ACTIONS

Let me now turn to the issues concerning the management of tuna in the Atlantic Ocean, and in particular protection of bluefin tuna in the western Atlantic. The ICCAT technical committee report at the November meeting recommending a quota for the western stock of Atlantic bluefin "as near zero as feasible in 1982" took many observers by surprise. Until that report, scientific agreement on the status of the stocks was lacking, even though signs of decline existed. The ATA believes that the decision of the ICCAT Commissioners to allow only a "scientific indexing" catch is appropriate in light of the findings of the technical committee.

Mr. Chairman, the International Commission for the Conservation of Atlantic Tunas (ICCAT) is an international organization governing tuna fishing through the Atlantic Ocean in the model of IATTC for the eastern Pacific Ocean. From ICCAT's creation in 1969, the member countries have been confronted with difficult management problems involving the bluefin. That ICCAT has responded to this year's more critical conservation test with an unprecedented recommended curtailment of fishing for bluefin in the western Atlantic, we feel, justifies our belief in using international organizations, acting on the best scientific information available, to manage the highly migratory tuna. It would be impossible for the United States, solely through a unilateral conservation effort in its 200-mile zone, to protect the depleted bluefin stocks.

Moreover, we feel no change in the U.S. juridical position is necessary to protect bluefin stocks. In fact, to do so would lose the international cooperation necessary to protect fully these wide-ranging species. Exclusive U.S. jurisdiction is simply antithetical to the ICCAT treaty. Other countries may not necessarily share our concern for conservation of bluefin and may not wish to take any action in ICCAT ceases to function. Finally, Japan, as a member of ICCAT and the largest catcher of bluefin, is more likely to respond to joint calls for fishing restraint than to a single nation's request.

Given the greater potential efficacy of ICCAT action and the harm a change in the U.S. juridical position could pose for members of ATA, we urge the Congress to allow the international course of action started at ICCAT to continue and not to change long-standing U.S. tuna policy. If deemed helpful, however, several complementary steps can be taken to strengthen the international conservation effort:

First, the Department of Commerce can amend its bluefin by-catch rules in the Atlantic Billfish and Shark Preliminary Management Plan to take into account the ICCAT quota. This assures greater protection of the bluefin and will concomitantly reduce the overall foreign fishing effort off our shores, thereby also protecting billfish.

Secondly, the Department of State could indicate to the Japanese Government that we would not look favorably on an objection to the ICCAT bluefin recommendation. Allocations in our 200-mile zone and the Pelly Amendment bolster our bargaining position in such a discussion.

Finally, the United States could, in future ICCAT sessions, press for a guaranteed allocation for coastal nations fishermen.

These several steps, along with the ICCAT measures, would squarely address the bluefin conservation and allocation concerns voiced by U.S. fishermen. They are also consistent with existing U.S. tuna policy.

3. THE ATA REGIONAL LICENSING AGREEMENT WITH THE GOVERNMENT OF PALAU, THE FEDERATED STATES OF MICRONESIA, AND THE GOVERNMENT OF THE MARSHALL ISLANDS

I have been asked, Mr. Chairman, to describe the regional fishery licensing agreement, which was implemented in 1981, between the ATA and three subunits of the Trust Territories of the Pacific Islands: the Government of Palau, the Federated States of Micronesia, and the Government of the Marshall Islands. These three political entities are not included within the terms of the Magnuson Fishery Conservation and Management Act, although the soon-to-be Commonwealth of the Northern Marianas is subject to the Act. This agreement covers over 3 million square miles of the western Pacific Ocean.

Under the agreement, member vessels of the ATA are allowed to fish in the waters covered by the agreement upon purchase of a Certificate of Access. Nineteen ATA vessels have done so. The ATA has agreed to have members observe applicable local law and not to disrupt traditional, locally-based fisheries. ATA tunaboats will also assist scientific information gathering by the Maritime Authorities of the three governments. In August, the term of the agreement was extended through December, 1982.

We view this agreement as a model "Article 64" cooperative agreement as contemplated in the present draft Law of the Sea Convention. In a separate agreement, the three governments have designated the Micronesian Maritime Authority as the lead management organization for the fisheries covered by the ATA agreement.

The mutual cooperation that has resulted from these arrangements will assist in the development of the tuna fisheries of this large area. The fishery resources in the western Pacific have only moderately been explored and exploited. According to the South Pacific Commission, the exploitable skipjack resources in its region ". . . appears much larger than previously estimated, perhaps on the order of 10 million tonnes."

4. SUMMARY

Mr. Chairman, the membership of ATA represents one of the most efficient and imitated fishing fleets in the world. The tuna produced by our vessels provide food for approximately 65 million U.S. citizens each year. Domestic fish processors consider the U.S. fleet the most reliable supply of this popular and wholesome food product. The agreement with the three western Pacific Island governments is symbolic of our desire to open up new fishing grounds and make new agreements, reasonable to the parties involved, which assure a continuous economical supply of tuna. We also settled our dispute with Canada when Congress ratified the Treaty on Pacific Coast Albacore Tuna Vessels and Port Privileges. Moreover, we are hoping to end for all time the ideological controversies the fleet has faced off Latin America.

A change in U.S. tuna policy at this time could change the difficult situation we face today to an impossible and totally uncertain one. Already, the pendancy of legislation to change our tuna policy has brought about a hardening of the Mexican stance and, we believe, is contributing to their unwillingness to negotiate. The bluefin depletion problem while very real, does not require such a draconian reversal of policy, nor would a change in policy fully protect bluefin stocks. On the other hand it would be extremely harmful to essential U.S. interests, scientific and economic.

Thank you, Mr. Chairman. That concludes my proposed remarks. I would be pleased to answer any questions you may have.

Senator WEICKER. Thank you very much.

As I indicated, the bill I've got to manage came on the floor 10 minutes ago.

Mr. Taylor, do you have any statement to make before the committee at this time?

Mr. TAYLOR. Senator, in the interest of time, I'd like to respond to a couple of points that Mr. Macnow made.

Senator WEICKER. Senator Cohen may be here shortly, to take over the Chair.

But I certainly appreciate each of you being here.

Would you proceed, Mr. Taylor.

Mr. **Taylor**. Thank you, Mr. Chairman.

Mr. Macnow made a remark that we had been promoting some sort of propaganda, that the Japanese in fact had caught 9,000 to 9,500 metric tons of bluefin in the Atlantic, or in the Western Atlantic.

I'm not sure what exactly he's referring to, but the number 9,000 to 9,500 has been referred to as the Japanese catch of entire tunas in our Western Atlantic FCZ. If he has any particular problems with any data or figures we're using, I'll be happy to clarify them. As far as I know, we've been very careful in the use of that.

Another key point that I think is important in developing our domestic acceptance of any international agreement is the U.S. credibility. Accepting the fact that alternatives have been exhausted, besides complete moratoriums.

I think in this particular instance there's been a distinct lack of exploring these different alternatives—such as reducing the purse seine fisheries for school fish, such as getting the Japanese under the provisions of the FCZ—which may result in an overall abundance of bluefin tuna. There may be other management measures in essence that do the same thing—but perhaps not.

But until those are exhausted, we're going to have difficulty developing general public acceptance. Again, under the FCMA the various regional fishery management councils would be responsible for developing plans. This would provide broader access to those fishermen who perhaps feel that these decisions were made somewhat arbitrarily and they don't have that much control or input into the decisionmaking process.

Finally, I would just like in conclusion to point out that I think that this bill in fact would resolve what I perceive to be a basic philosophical conflict we have in approaching our national policy in response to fishery management problems.

We've said that we're going to include under our control many species of fish which are considered as highly migratory, or more so than tuna—such as various billfish, sharks, and so on.

The exemption of a single so-called highly migratory species doesn't seem to jibe with the rest of the national philosophy in approaching this. I haven't heard any of the administration witnesses suggesting that we suddenly turn around and exempt any of the billfish, swordfish, and sharks from coverage which they now enjoy. If they were to recommend that, then I think their argument would have a bit more credibility.

Finally, I think I'd like to emphasize what Mr. Nordquist said earlier, that the provisions of the American Tuna Protective Act—I think they do impose a broader hardship on the national interests, not just as far as the taxpayers are concerned, but I know from experience, working with people in the Gulf of Mexico, for example, that they've had fishing permits rejected for snapper, grouper, and other species which traditionally they've had, primarily as a retaliatory response to our continued policy of embargo.

That summarizes my statement.

Senator **Weicker**. Mr. Taylor, thank you very much.

The committee will stand in adjournment.

[Whereupon, at 11:15 a.m., the committee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Statement of Hon. William V. Roth, Jr., U.S. Senator From Delaware

I am pleased to be a cosponsor of the legislatin which we are considering here today—a bill which would provide for managment of the Bluefin Tuna and would hopefully make possible the redevelopment of this threatened species.

I think it was fortunate that the Bluefin Tuna was excluded from the provisions of the Fishery Conservation and Management Act as originally enacted. In the Middle Atlantic Region, I have been greatly impressed with the ability of our Fisheries Council to deal with fish management issues. They have consistently been able to serve long range conservation needs while at the same time have recognized the concerns of commercial fishing groups. Quite recently the Council has effectively dealt with a threatened depletion of Atlantic Surf Clam stocks in such a manner as to allow commercial fisheries to continue to operate.

There is no doubt that the Bluefin Tuna is threatened by overly extensive fishing. The question at hand is what administrative mechanism should be employed to implement a management plan. Opponents of S. 1564 suggest that management should occur through diplomatic agreement under the International Commission for the Conservation of the Atlantic Tuna. The Commission, which can require nothing more than voluntary international compliance, has a very poor track record in solving the problem of depleted tuna stocks.

What concerns me most is the demonstrated lack of sensitivity to Atlantic commercial and recreational fishing interests of the United States delegation to the Commission. I am speaking of the recent proposal by our representatives to the Commission to place a year moratorium on Bluefin Tuna fishing in the Western Atlantic. With this proposal, which was enacted by the Commission, our American fishermen are required to comply with the moratorium while foreign fishermen can and probably will ignore it. The implications are for the Atlantic Commercial Fisheries and all sports fishermen are devastating. Worse yet, without the guaranteed compliance of foreign fishermen, the Commission will not accomplish the goal of the moratorium, namely the preservation of tuna stocks.

We can no longer delay the enactment of effective legislation to deal with this problem. The extinction of a very valuable national resource is imminent. I believe we must move quickly to pass the American Tuna Act to protect both this species of tuna and the rights of American fisherman.

Statement of Hon. William S. Cohen, U.S. Senator From Maine

Mr. Chairman, I want to thank you for this opportunity to state my support of S. 1564, the American Tuna Protection Act and to commend you for convening this hearing on the status of our tuna stocks. I am sure that the testimony brought forward today will illustrate the need for this legislation.

As you know, Mr. Chairman, the various species of tuna which are found within 200 nautical miles of the United States are not protected by the Magnuson Fisheries Conservation and Management Act (MFCMA). On the contrary, these fish were expressly removed from the act by being designated "highly migratory species" in the belief that the range of their migrations made management by a single nation impossible. An international management entity, the International Commission for the Conservation of Atlantic Tuna (ICCAT) now manages the tuna stocks of the Atlantic. As well intentioned as the present management structure is, it is deficient in at least two critical respects.

First, the assumption that tuna, because of its migratory range could not be managed by a single nation has been placed in doubt by recent biological research. Scientists now believe that Atlantic tuna only congregate in numbers sufficient for economical fishing when they are feeding or spawning. Such congregations generally occur within the 200 mile limit of the United States. Further evidence in support of this theory is found in the statistics on where tuna catches occur.

Second, ICCAT, the international management regime charged with protecting the tuna stocks, is not working. There is little question that, for example, stocks of

Atlantic bluefin tuna are in serious decline. Indeed, their continued existence as a fishery stock has been placed in question. Scientific data indicate that they are being overfished to the point where they have failed to produce a health year class since the 1960's. Fish biologists are now seeing the first signs of a possible recruitment failure—A potential disaster for the stocks and a clear indication of the inadequacy of present management practices. A revival of Atlantic bluefin stocks will only come with a rigorous and prolonged management regime and yet ICCAT, the body currently responsible for that regime, is the very entity which has overseen the decline of Atlantic bluefin stocks. Adequate protection of the bluefin stocks thus requires enactment of this legislation.

The ineffectiveness of international management of the Atlantic bluefin stocks is reminiscent of the conditions which led to the enactment of the MFCMA. At that time, the ineffectiveness of international fishery management systems prompted the assertion of our domestic jurisdiction to ensure the preservation of the fish stocks. In this instance, even though the United States has imposed strict conservation measures on its own tuna vessels, it lacks the authority to compel foreign vessels to adhere to the same standards. This bill would enable the United States to protect the tuna stocks when such protection is necessary without having to compromise with far distant nations who will simply move to other fishing grounds once the Atlantic is exhausted.

When management by multilateral agreement is best able to regulate fishing and protect the stocks, I fully expect the United States to pursue such agreements. Where, however, such agreements prove inadequate, this legislation would authorize the United States to act domestically to provide the necessary protection. Furthermore, when foreign fishing in U.S. waters is justified, such fishing should, and will, continue. This bill, in short, does not seek to exclude foreign fishing, nor does it reject international cooperation for management of migratory species. It seeks instead to protect migratory stocks and augment existing domestic authorities. With this legislation, we may bring our own domestic laws into accord with prevailing State practice, and reduce the international frictions which presently characterize the management of migratory species between neighboring States.

For these reasons, Mr. Chairman, I fully support this legislation, and thank you once again for the opportunity to present my views on this matter.

STATEMENT OF THE STATE OF NEW YORK

The State of New York would like to make known its position on the "American Tuna Protection Act." We believe it is in the best interest of the fish and our fishermen to include the tuna species under the jurisdiction of the U.S. 200-mile Fishery Conservation Zone.

Recent action by the International Commission for the Conservation of Atlantic Tunas (ICCAT) clearly recognizes the benefit of management in one part of the ocean on migratory species.

Some U.S. fishery scientists have been advocating this position for years and it is rewarding to see that the International community has seen the light. Congress in its wisdom has previously recognized that management of migratory species like billfish, swordfish, and sharks under the MFCMA will benefit stocks in U.S. waters. Now with the support of the ICCAT position, it is clear that tuna should no longer remain the exception, but become part of the internationally accepted rule. We are sure you are aware that we are the only major tuna fishing nation in North America to cling to the notion that management off our coast will not benefit the species.

In addition, we feel it is time the U.S. Congress began to look out for the interests of our fishermen rather than catering to foreign longline fishermen. This is especially important at this time in light of the ICCAT action. It is clear to us that the meagre 800 metric ton allocation of bluefin tuna for the western Atlantic should only be shared by U.S. and Canadian fishermen. Our local residents have taken far more than this amount in the past and now must we make them suffer all the more by having to reduce their catch by an even bigger factor due to foreign longliners. There is no reason we should have to share the catch of this species in any other fashion than through the market place with foreign nations who have use for this fish.

We have listened and listened to all the arguments against this action and can only think back to the days just before the U.S. woke up to the need for the Magnuson Fishery Conservation and Management Act itself. Why are we so reluctant to act to preserve our own resources for our own fishermen again?

The Commonwealth of Massachusetts,
Division of Marine Fisheries,
Boston, Mass., December 4, 1981.

Hon. Lowell P. Weicker, Jr.,
Committee on Energy and Natural Resources,
Washington, D.C.

Dear Senator Weicker: It is my understanding that you are chairing a special hearing before the National Ocean Policy Study on the status of Atlantic Bluefin Tuna stocks. Although I cannot be present at this hearing, I would like to convey to you our reaction to the recent decision by the International Convention for the Conservation of the Atlantic Tunas.

I must emphasize at the outset that we are aware of the depressed state of Atlantic bluefin tuna stocks and that the Commonwealth of Massachusetts remains committed to the conservation and rational management of the valuable bluefin tuna resource. You may recollect, Mr. Chairman, that the Commonwealth of Massachusetts implemented the first quota system for giant bluefin tuna back in 1974 when it became apparent that fishing mortality was reaching excessive levels. More recently, the Massachusetts Marine Fisheries Advisory Commission resolved that the Magnuson Fishery Conservation and Management Act be amended to include management authority of Atlantic tunas.

In spite of our genuine concern for the well-being of this valuable resource I must voice strong objection to the two year moratorium on tuna fishing in the western Atlantic recently voted by ICCAT upon recommendation of the U.S. delegation. Up to six tuna purse seine vessels sail from Massachusetts ports, and/or fish in Massachusetts waters, together with approximately 4,000 smaller boats registered in the hand-gear fishery. The action by the U.S. Delegation and ICCAT Commissioners shows an appalling disregard for the financial well-being of thousands of fishermen, processors, bait and tackle dealers, and charter boat operators that are substantially dependent on the tuna resource.

Given the severe economic consequences of a fishery closure, it is unconscionable that the fishing industry was not forewarned of this possibility. To the contrary, a radically different U.S. position favoring coastal states' preference was developed and publicized prior to the November meeting of ICCAT. It has been our impression that the U.S. position regarding international tuna management is the product of deliberations involving, among others, scientists, members of the Advisory Committee to the U.S. delegation, and the State Directors. This being the case, any major alteration of the U.S. position should clearly be subject to the same level of scrutiny.

We are further concerned with the non-binding nature of ICCAT recommendations and the fact that several tuna fishing nations are not members of the Commission. If tuna stocks are indeed sufficiently threatened to warrant a fishery closure in the western Atlantic, it seems intolerable that other nations, by virtue of their formal objections to ICCAT recommendations or their non-membership could continue to fish as usual in the U.S. waters. The very fact that this possibility exists constitutes a major argument in favor of amending the Magnuson Fishery Conservation and Management Act to include Atlantic bluefin tuna. Management authority over tuna fishing activities in the U.S. Fishery Conservation Zone, particularly in the northwest Atlantic, is clearly necessary if we are to protect U.S. interests in the process of managing bluefin tuna stocks.

In closing, I must reiterate that the economic impacts of this moratorium on the domestic fishing industry, coupled with the probability of continued foreign fishing under this non-binding international arrangement will not serve either the purposes of tuna conservation or rational management.

Respectfully yours,

Philip G. Coates, *Director.*

Enclosure.

Massachusetts Marine Fisheries Advisory Commission

RESOLVE PROVIDING THAT THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT (MFCMA) SHOULD BE AMENDED TO INCLUDE MANAGEMENT AUTHORITY OF ATLANTIC TUNAS

Whereas, United States fishery management authority has been established pursuant to the MFCMA (16 U.S.C. 1801, et seq, as amended) to include a fishery conservation zone extending from the coastal states three mile limit to a distance of two hundred miles; and

Whereas, United States fishery managment authority within this fishery conservation zone applies to all fishery resources except highly migratory species including Atlantic tunas; and

Whereas, the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommends conservation and management measures for Atlantic tunas to be implemented by the signatory nations to the Commission of which the United States is one; and

Whereas, the United States, pursuant to the provisions of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971, et seq) has established strict conservation and management measures for United States fishermen fishing for Atlantic tunas; and

Whereas, unregulated foreign fishing for Atlantic tunas in the fishery conservation zone is having an adverse impact on United States conservation and management measures for Atlantic tunas;

Now, therefore, it is hereby

Resolved, That the undersigned members of the Massachusetts Marine Fisheries Advisory Commission endorse amendments to the MFCMA repealing the present exemption for highly migratory species to the extent that it includes management authority of Atlantic tunas consistent with the conservation and management recommendations of ICCAT.

Signed this eleventh day of June, 1981.

Elizabeth Stromeyer, Charles Fields, Morris Johnson, Francis Mirarchi, Harry Swain, Angelo Faro, Joseph Brancaleone, Thomas Bartlett, Jack F. Conroy.

STATEMENT OF MICHAEL P. GENOVESE, SR.

Mr. Chairman and Members of the Committee, the International Convention for the Conservation of Atlantic Tunas (ICCAT) meeting of November 11-17, 1981, recommended to stop the fishing of Atlantic Bluefin Tunas in the Western Atlantic, except for an annual scientific sample of 800 metric tons, for two years. This recommendation was made by the committee (scientific) of ICCAT after evaluating accumulated data from the countries involved.

Unfortunately, the economic impact of this decision was not considered. In 1980, over 5,700 metric tons of Atlantic Bluefin Tunas were landed from the North-Western Atlantic, of this 1,500 metric tons were landed by U.S. fishermen. With the price of tuna in today's market being what it is, the 1,500 metric tons represents millions of dollars of revenue for the U.S. alone. The loss of this revenue could be detrimental to all those concerned, the participating states and fishermen.

In the past the scientific data accumulated by our govenment has been taken at face value. We feel that this data does not show an accurate evaluation of the stocks.

The U.S. has self-imposed a "quota" on Atlantic Bluefin Tuna for the past four years. This quota has been minimal for the vessels involved. Therefore, the members of our corporation feel that the recommendation made by ICCAT is extremely harsh and uncalled for.

STATEMENT OF GEORGE L. PURMONT, JR.

Mr. Chairman and Members of the Committee, the Seventh Meeting of I.C.C.A.T. held November 11-17, 1981, concluded with a bluefin tuna recommendation which would impose a two year moratorium on all fishing for the bluefin in the western Atlantic, except for an eight hundred metric ton allowance to monitor the stocks. I do not believe a moratorium is necessary or justifiable. My position is based on professional observations which run counter to the currently accepted statistical analysis on the status of the bluefin and on the belief that the United States' representatives to the I.C.C.A.T. meeting did not act with prudent foresight or with proper consideration of the economic impact involved. Further, I believe that the Atlantic bluefin tuna should be protected by the nation in who's exclusive economic zone it swims.

I am a commercial tuna fisherman, and have spent four seasons on the east coast purse seiners and ten seasons as a spotter pilot directing an east coast tuna purse seine fleet. The knowledge I have gained and information I have recorded is unique. It is first hand experience, involving a great amount of time and effort. I overview large areas of the Atlantic every day and am often the only witness to the size and extent of Atlantic bluefin tuna stocks. There are few people who cover approximately four hundred and fifty thousand square miles of ocean in a season as I do, and my observations indicate that tuna stocks, especially school fish, are in a stable condition.

There are a large number of fishermen participating in the Atlantic bluefin tuna fishery to varying degrees. Many of these men are dependent on this fish as a primary or secondary source of income. If those of us who will be most affected by a moratorium must seek other avenues of fishing for a livelihood, we will have to direct our efforts to local species because we can not venture to other oceans. It is a vicious cycle. The history of the Atlantic bluefin tuna fishery has been the sad case of an industry in which the local American fisherman has paid the highest for conservation price.

East coast fishermen have proposed quotas and assisted in information gathering on this tuna specie, because we feared that the fishery would be vulnerable to overfishing by some wide-ranging and highly sophisticated fishing interests, i.e., Japanese longliners and the giant purse seiners. Our recommendation caused us economic anxiety and adjustment but we kept within its boundaries. It was not easy at first. The regulatory agency and its procedures took some getting used to. Within our own group we practiced selective fishing when possible. We harvested the oldest school fish available to cut down on total mortality. We directed a greater effort to catch the unregulated skipjack so that we would not exceed bluefin quotas. In good faith the East coast fisherman has taken a conservative position on fishing. While we were being economically constrained another nation was freely and efficiently decimating those fish which constitute the parentage of our industry. There should be considerable attention drawn to this issue. The facts have always been there and certainly now it is time for the United States Government to include the Atlantic bluefin tuna within its two-hundred-mile jurisdiction.

Thank you.

STATEMENT OF DAVID M. THOMPSON

Mr. Chairman and Members of the Committee; I have been a fish spotter for the fishing vessel *The White Dove* for the past 5 years. With regard to the proposed ICCAT recommendation to reduce the limit on bluefin tuna, I feel it is not only unnecessary, but would cause an undue hardship on all concerned.

My reason for this belief is the fact that in the past 5 years I have seen no reduction in the schools of bluefin tuna; if anything there has been an increase in the school tuna.

The Captain of the *White Dove* has offered aerial observation to the Federal Government on numerous occasions. Your representatives have accepted on occasion, and have seen the schools in question.

I keep annual records of my observations concerning the schools of tuna, which include the time and location of sighting, and would be willing to testify if requested.

STATEMENT OF FRANKLIN G. ALVERSON, LIVING MARINE RESOURCES, INC.

Mr. Chairman, I appreciate the opportunity to testify here today on the subject should tunas be managed under the FCMA. I want to apologize for the rather cryptic nature of my statement, as I was under the impression until late Friday afternoon that the subject of this hearing was Atlantic bluefin.

Management of tunas will be effective only if uniformly applied throughout the total range of the species or stock.

No single nation can manage the resources as tuna know no boundary lines. Unilateral approach to management is self-defeating.

Management can only be effective if there is an equitable enforcement on all parties concerned.

Tuna availability in any given area varies from time to time within a year and among years. Unlike manganese nodules, they are not fixed in time and space.

The most effective techniques and strategies for harvesting tunas are those which most closely approximate the mobility and range of the tunas themselves.

If fishermen are not prevented by artificial constraints, they strive to become as pelagic as the fish they pursue.

During the period 1978–1980, NMFS statistics reveal that from 97 to 100 percent of the yellowfin, skipjack, albacore and bigeye landed in the United States were captured in the Pacific Ocean (Table 1).

During the same period, the bulk of these species captured in the Atlantic Ocean were taken by seiners which operate most of the year in the Pacific (Table 2).

Inclusion of tunas within the FCMA would do grave harm to these tuna fisheries.

Inclusion of billfishes, a highly migratory group, within the FCMA has already created management problems for the United States, as these species also cannot be managed properly by unilateral action.

It is my understanding that the seiners based on the east coast had a record skipjack year in 1981, approximately 3,000 tons.

The western stock of the Atlantic bluefin tuna is definitey in need of rehabilitation but it appears that our fishermen can take solace in the fact that the skipjack potential is enormous.

I have testified numerous times before the House on this subject. Appended is my last statement, given before the Subcommittee on Fisheries and Wildlife Conservation and the Environment on September 25, 1981. Testimony given before the same Committee on May 1, 1980 and June 26, 1979 may be found in Government Serials 96-37 and 96-17, respectively.

Again, thank you for the opportunity to testify on this subject. I would be pleased to answer any questions.

TABLE 1.—PACIFIC OCEAN TUNA LANDINGS BY U.S.-FLAG VESSELS; YELLOWFIN, SKIPJACK, ALBACORE, AND BIGEYE SPECIES, 1978–80

[In thousands of pounds]

	1978	1979	1980
Yellowfin	259,951	274,698	228,641
Skipjack	238,447	191,404	229,669
Albacore	37,308	15,417	15,901
Bigeye	1,283	2,934	7,048

PACIFIC OCEAN TUNA LANDINGS AS A PERCENT OF TOTAL U.S. LANDINGS

[In percent]

	1978	1979	1980
Yellowfin	97.03	98.79	98.72
Skipjack	97.96	98.25	97.73
Albacore	99.99	99.84	99.94
Bigeye	100	100	99.98

Note.—All data are preliminary.
Source: National Marine Fisheries Service, Resource Statistic Division, F/SRI, Washington, D.C. 20235.

TABLE 2.—ATLANTIC OCEAN TUNA LANDINGS BY U.S.-FLAG VESSELS: YELLOWFIN, SKIPJACK, ALBACORE, AND BIGEYE SPECIES, 1978–80 (ANALYZED BY LANDINGS BY PUERTO RICO-BASED U.S. PURSE SEINERS AND U.S. ATLANTIC/GULF COAST VESSELS)

[In thousands of pounds]

	U.S. Atlantic	U.S. Puerto Rico	U.S. Atlantic/ Gulf coastal
1978:			
Yellowfin	7,957	7,934	23
Skipjack	4,967	4,829	138
Albacore	5	4	1
Bigeye	0	0	0
Total	12,929	12,767	162
1979:			
Yellowfin	3,363	3,330	33
Skipjack	3,408	2,764	644
Albacore	25	24	1
Bigeye	0	0	0
Total	6,796	6,118	678

TABLE 2.—ATLANTIC OCEAN TUNA LANDINGS BY U.S.-FLAG VESSELS: YELLOWFIN, SKIPJACK, ALBACORE, AND BIGEYE SPECIES, 1978–80 (ANALYZED BY LANDINGS BY PUERTO RICO-BASED U.S. PURSE SEINERS AND U.S. ATLANTIC/GULF COAST VESSELS)—Continued

[In thousands of pounds]

	U.S. Atlantic	U.S. Puerto Rico	U.S. Atlantic/ Gulf coastal
1980:			
Yellowfin	2,976	2,907	69
Skipjack	5,343	4,476	867
Albacore	10	3	7
Bigeye	2	0	2
Total	8,331	7,386	945

Source: National Marine Fisheries Service, Resource Statistics Division, F/SRI, Washington, D.C. 20235.

ESTIMATED CURRENT FLEET CAPACITY, PROJECTED FOR 1983, 10- AND 5-YEAR AVERAGE CATCH WITHIN 200-MILE ECONOMIC ZONE, NUMBER OF YEARS CATCH EQUALED OR EXCEEDED 10-YEAR AVERAGE, AND CATCH PER CAPACITY TON CURRENT AND PROJECTED FOR EL SALVADOR, MEXICO, AND PANAMA

[In short tons]

	El Salvador	Mexico	Panama
Current fleet capacity	1,750	37,000	6,540
Projected 1983	2,625	[1,2] 110,000	7,740
10-year average catch	3,170	63,200	10,810
Average last 5 years	2,376	80,200	10,800
Number years equal or above 10-year average	4	4	3
Annual catch per capacity ton using highest average:			
Current	1.50	2.17	1.65
Projected	1.21	0.73	1.40

[1] Tecnica Pesquera No. 163 projects fleet in 1983 at 148,500 tons. This number has been adjusted downward to account for construction cancellation and changes to flags of convenience.

[2] The same magazine points out a possible high of 227,000 and projects annual landings at 530,000 tons. (Note.—This is 116,000 tons higher than the record all nation catch in 1976.)

APPENDIX

Mr. Chairman, I appreciate the opportunity to testify here today on the current status of the western Atlantic bluefin stock.

Prior to this year's meeting of the International Commission for Conservation of Atlantic Tunas (ICCAT) in Tenerife, Canary Islands, November 2–17, 1981, scientists concerned with Atlantic tunas were aware that the size of the Atlantic bluefin stock had declined somewhat from the levels attained in earlier years.

At the meeting in Tenerife analysis of the information under a two-stock hypotheses, east-west, indicated that in the east, recruitment has fluctuated without trend during the past 20 years. Present overall abundance of the stock was estimated to be about 74 percent of its former level. However, a new analysis of the data presented at the meeting indicated that the decline in the western Atlantic stock was much more severe than previously indicated and currently it was at an all-time low.

In the United States the task of determining the status of the bluefin stock(s), be it western Atlantic and eastern Atlantic or as one stock for the entire area, resides with the Southeast Fisheries Center, National Marine Fisheries Service (NMFS).

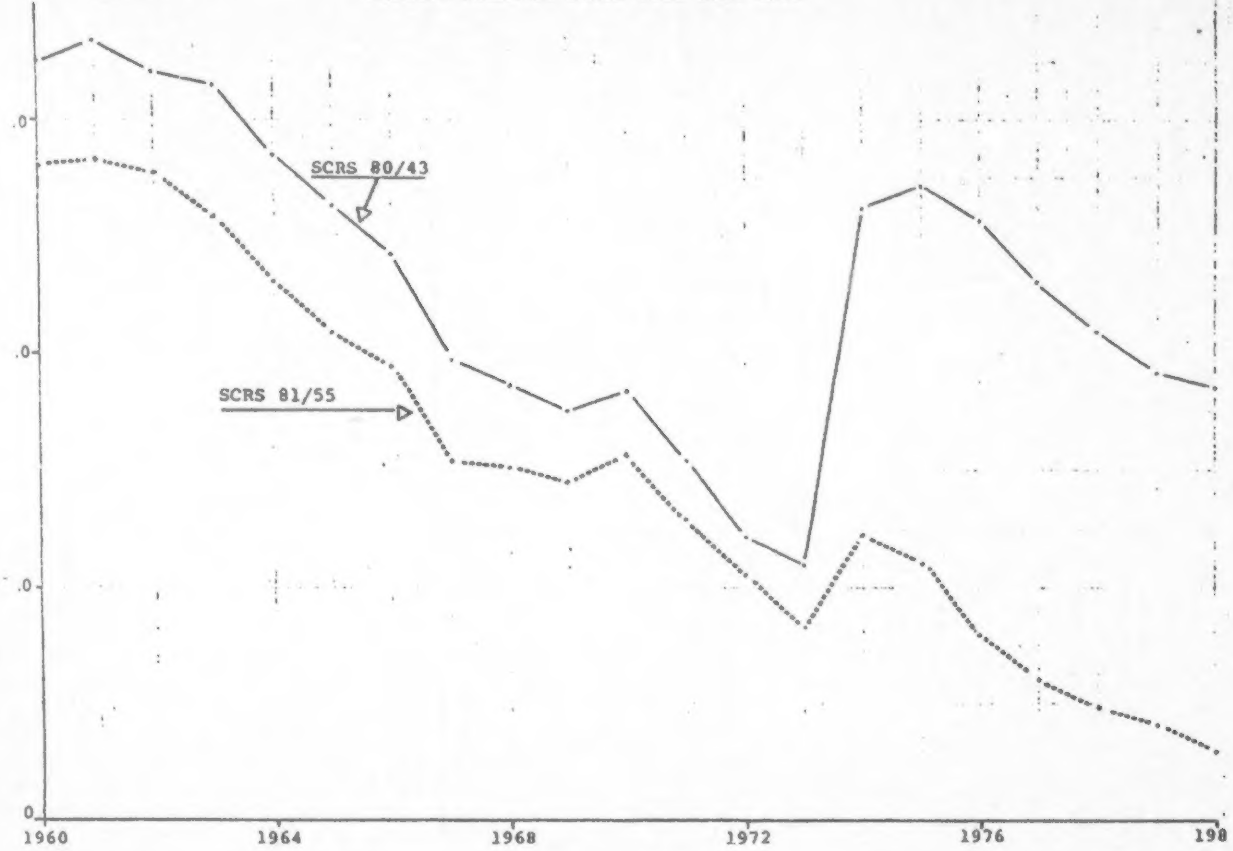
With ICCAT and its Standing Committee on Research and Statistics (SCRS), a key input on the status of bluefin in the Atlantic is furnished by the above agency, with technical support from the Southwest Fisheries Center.

In 1980, the NMFS presented a paper (SCRS/80/43) which indicated that the western Atlantic component of the stock was in fairly good shape. This is illustrated in Figure 1, where the numbers of fish in this stock, 1960–1980, is illustrated by the solid line. It is readily apparent that in 1979–1980, the stock size was similar to that in 1967–1968. In 1981, at the Commission's annual meeting, the NMFS presented a new analysis of the status of the western Atlantic stock. This is illustrated by the dashed line in Figure 1. This analysis demonstrated that the stock level was at an all-time low in 1980, some 290,000 fish, as compared to 1.85 million for the same year in the 1980 analysis. Further, although not plotted in the Figure, the stock size in 1981 was projected to be 190,000 fish. Also, both the spawning stock and the recruitment showed alarming rates of decline.

Given the above information, the SCRS recommended that the Commission take appropriate action to rehabilitate the stock. This action was taken by the Commission.

FIGURE 1

WESTERN ATLANTIC STOCK SIZE 1960-1980



ANSWERS TO QUESTIONS OF SENATOR WEICKER BY THEODORE G. KRONMILLER, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS

Question 1. I'm glad to see that the State Department has recognized the problem with Bluefin tuna stocks. However, I wonder why we suddenly find ourselves with an emergency quota of essentially zero Bluefin for U.S. fishermen. Did you take into account the effects that the low ICCAT quota would have on Gulf and Atlantic fishermen during the recent ICCAT meeting?

Answer. The U.S. Commissioners to ICCAT and their advisors on the U.S. delegation carefully considered the effects of a small bluefin quota on U.S. fishermen. The report of the Scientific Committee on Research and Statistics showed an immediate need for significant action to reduce the catch of bluefin tuna in the western Atlantic. The U.S. has been concerned for several years about the status of the bluefin stock and the adequacy of earlier ICCAT conservation measures. We believe the ICCAT recommendation to reduce the bluefin catch to the amount needed for scientific monitoring is necessary at this time to restore the stock for future exploitation.

Question 2. I understand that you went into the November 11-17 ICCAT meeting with the idea of pushing for a coastal state preference regime whereby U.S. fishermen have the first opportunity to take Bluefin from our FCZ. Why have you abandoned that concept?

Answer. Prior to the November 1981 meeting of ICCAT, the U.S. decided to pursue the adoption of a coastal state preference approach to bluefin allocations along the lines of the concepts accepted in negotiations concerning the eastern tropical Pacific tuna fishery. The first step in this approach was establishment of an overall quota on the catch of bluefin tuna. When it became apparent from the scientific report at the ICCAT meeting that such a quota should be essentially zero in the western Atlantic, we decided to pursue a coastal state preference only with regard to the allowable catch. The allowable take of 800 MT is intended to allow scientific monitoring and assessment of the bluefin stock. A broader coastal state preference regime remains a valid option for the U.S. to pursue in the future, depending on developments in the bluefin fishery.

Question 3. Under the proposed ICCAT management plan what will prevent non-ICCAT nations such as Mexico, Venezuela and Taiwan from taking Bluefin from our FCZ?

Answer. The Department of State is not aware of any country with plans to begin a new fishery for bluefin tuna off the U.S. Atlantic coast. In any event, we believe the recent ICCAT action provides us with a lever to deal with such a development regardless of whether the nation involved is a member of ICCAT.

Question. 4. Assuming that the Japanese do abide by the ICCAT recommendation, what will prevent them from taking Bluefin above the quota and simply not reporting it?

Answer. We have no reason to believe that Japan, as a responsible member of ICCAT, will fail to report bluefin catch as a means of circumventing the ICCAT quota. In addition, U.S. observers will enable us to monitor any Japanese tuna fishery in our FCZ.

Question 5. Why is it that we can manage other species of highly migratory fish, such as billfish and shark, through the FCMA, but not tuna?

Answer. Even though the FCMA included billfish and sharks under U.S. jurisdiction, we recognize the need for international cooperation and agreement on conservation of these migratory species. In the case of tuna, it is important, for all of the reasons elaborated in our testimony on this question, to maintain our current juridical position which fully recognizes the biological need for international management of highly migratory species.

Question 6. Do you think that more can be accomplished in the way of international management of tunas if the U.S. abandons its confrontational approach and recognizes the juridical rights of the 87 coastal nations that currently claim control over tuna?

Answer. I do not think the U.S. should abandon its juridical position on highly migratory species and recognize coastal state jurisdiction over tuna in the 200-mile zone. Extension of U.S. jurisdiction over tuna out to 200 miles and recognition thereby of other States' claims to jurisdiction would encourage self-defeating unilateral efforts to control highly migratory stocks that range through many 200-mile zones and beyond. To change our law to include tuna under U.S. jurisdiction would be inconsistent with the goal of international management, would eliminate vital negotiating leverage, and would not be compatible with the U.S. economic interest in a strong distant-water tuna fleet.

Question 7. In your testimony you have stated that the passage of S. 1564 will mean that the U.S. will not be able to apply the import prohibitions of Section 205 of the FCMA. However, I have here a five page memorandum from the CRS American Law Division stating that the U.S. will retain its legislative prerogative to embargo intransigent countries. Can you expand on your position?

Answer. After reviewing the CRS legal memorandum on the effect of S. 1564 upon Section 205 of the MFCMA, I believe it fails to take into account fully the practical realities under which this section of the law must be applied. In practice, all tuna embargoes have been triggered by seizures based on claims of jurisdiction not recognized by the U.S., Section 205(a)(4)(C). If S. 1564 becomes law, the U.S. claim of jurisdiction over highly migratory species would be substantially similar to the claim of jurisdiction of most coastal States. Therefore, the "substantial disparity" in the jurisdiction claims hypothesized in the CRS memo would not exist and we believe that we could no longer impose a tuna embargo under this section.

Subsections (a)(2), (a)(3), (a)(4)(A), and (a)(4)(B) pertaining to violations of international fishery agreements would all continue to apply if S. 1564 is passed. However, they offer no protection from vessel seizures by the very countries with which we are currently negotiating, since these countries do not now belong to the international tuna organizations.

Finally, it is not at all certain or even likely that subsection (a)(1) would authorize the imposition of an embargo, if S. 1564 became law. Foreign coastal States might well deny access to the U.S. tuna fleet under terms and conditions no more restrictive than provisions of U.S. law in the case of extended U.S. fishery management authority over tuna.

Question 8. What effect is our current policy on tuna having on our Trust Territories?

Answer. Despite our differing views on jurisdiction over highly migratory species, the U.S. has granted fishery management authority to the Trust Territories (excluding the Northern Mariana Islands which are subject to the MFCMA). The Trust Territories have been able to conclude arrangements on foreign fishing rights in their fishery zones. The Federated States of Micronesia, Palau, and the Marshall Islands have also benefitted from a regional licensing arrangement for tuna fishing concluded with the American Tunaboat Association.

Question 9. What effect is our current policy on tuna having on relations with our Latin American neighbors?

Answer. Our tuna policy is a subject of disagreement with a number of Latin American coastal States. However, we and the Latin Americans have generally succeeded in containing the effects of our disagreement from damaging other aspects of our bilateral relations. We are hopeful that continuing negotiations will resolve our problems in fisheries.

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